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House File 55 - Introduced

HOUSE FILE 55
BY PETTENGILL

A BILL FOR

1 An Act allowing criminal history and abuse registry background
2 checks for certain food vendors.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1710YH (1) 85
jm/nh



Iowa General Assembly
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H.F. 55

1 Section 1. NEW SECTION. 137G.1 Food vendor — motor vehicle
2 — background check.

3 A business that operates a motor vehicle primarily marketing
4 the sale and dispensing of ice cream or other food products
5 from or near the motor vehicle to children may require an
6 employee, vendor, contractor, or agent of the business to
7 be subject to a criminal history and abuse registry record
8 background check. The business shall perform the background
9 check by accessing the single contact repository established
10 under section 135C.33, subsection 6.

11 Sec. 2. Section 235A.15, subsection 2, paragraph e, Code
12 2013, is amended by adding the following new subparagraph:
13 NEW SUBPARAGRAPH. (24) To a business which is authorized to
14 perform a background check pursuant to section 137G.1.

15 Sec. 3. Section 235B.6, subsection 2, paragraph e, Code
16 2013, is amended by adding the following new subparagraph:
17 NEW SUBPARAGRAPH. (19) To a business which is authorized to
18 perform a background check pursuant to section 137G.1.

19 EXPLANATION

20 This bill relates to criminal history and abuse registry
21 record checks for certain food vendors.

22 The bill provides that a business that operates a motor
23 vehicle primarily marketing the sale and dispensing of ice
24 cream or other food products from or near the motor vehicle
25 to children may require an employee, vendor, contractor, or
26 agent of the business to undergo a criminal history and abuse
27 registry record check by the business.

28 The bill requires a business that chooses to perform a
29 criminal history and abuse registry record background check to
30 perform such a check by accessing the single contact repository
31 established under Code section 135C.33(6).

32 The information received by the business accessing the
33 single contact repository includes information relating to the
34 following: Iowa criminal history, the sex offender registry,
35 the child abuse registry, and the dependent adult abuse

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1 registry.



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House File 56 - Introduced

HOUSE FILE 56
BY ISENHART

A BILL FOR

1 An Act relating to energy cost disclosures in connection with
2 rental units or properties, providing penalties, making
3 remedies applicable, and including applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1184HH (1) 85
rn/sc



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1 Section 1. Section 476.56, Code 2013, is amended to read as
2 follows:

3 **476.56 Energy costs provided.**

4 A gas or electric public utility shall provide, upon the
5 request of a person who states in writing that the person is an
6 owner of real property, or an interested prospective purchaser
7 ~~or renter~~ of the property, which is or has been receiving gas
8 or electric service from the public utility, the annual gas or
9 electric energy costs for the property.

10 Sec. 2. NEW SECTION. **476.56A Energy cost disclosure**
11 **statements — rental property.**

12 1. As used in this section, "*dwelling unit*", "*landlord*",
13 "*rental agreement*", "*rental deposit*", and "*tenant*" mean the same
14 as defined in section 562A.6. In addition, "*landlord*" shall
15 include any person authorized to enter into a rental agreement
16 on the landlord's behalf.

17 2. A prospective tenant who would be responsible for the
18 payment of gas or electric energy costs with respect to the
19 lease or rental of residential real property, or an existing
20 tenant currently responsible for the payment of such costs,
21 has the right to obtain the amount of energy consumption and
22 the cost of that consumption for the dwelling unit for the
23 preceding twelve-month period from the landlord based upon
24 information supplied at no charge from the public utility
25 furnishing gas or electric service. The amount of energy
26 consumption and the cost of that consumption shall be provided
27 on a disclosure statement developed pursuant to subsection 3
28 and furnished by the landlord either to a prospective tenant
29 expressing interest in entering into a rental agreement,
30 or upon request by an existing tenant subject to such an
31 agreement.

32 3. The office of the consumer advocate shall develop an
33 energy cost disclosure form for utilization by landlords
34 in complying with this section. The form shall contain
35 space for the disclosure of the annual amount of energy

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1 consumption and the cost of that consumption, and shall also
2 include a representative list of energy efficiency standards
3 incorporating features or upgrades which a dwelling unit or
4 the building of which it is a part might conceivably exhibit
5 or offer. The list of energy efficiency standards shall
6 be developed by the office of the consumer advocate, in
7 consultation with state and federal energy efficiency agencies
8 and experts, and shall be accompanied by a space for notation
9 by the landlord indicating whether or not the unit or building
10 meets or exceeds each standard. The office of the consumer
11 advocate and local housing authorities responsible for the
12 issuance of residential rental property permits shall post and
13 maintain the recommended standards required by this section,
14 and detailed information on how to comply with the standards,
15 on an internet site maintained by the office and an internet
16 site maintained by or on behalf of the local housing authority.

17 4. Before a prospective tenant enters into a rental
18 agreement or pays a rental deposit with respect to a dwelling
19 unit, the landlord shall obtain the prospective tenant's
20 signature on the disclosure statement, and sign the statement.
21 The statement shall be retained by the landlord for a minimum
22 of three years.

23 5. The board, in consultation with the office of the
24 consumer advocate, shall adopt rules to administer this
25 section.

26 6. In addition to any other remedy available pursuant
27 to chapter 562A, upon receipt of a complaint filed by a
28 prospective tenant or tenant that the provisions of this
29 section are not being complied with, a local entity with
30 regulatory authority shall suspend the rental license for any
31 unit for which an energy disclosure statement is not provided
32 upon expiration of a seven-day period following notification
33 to the landlord of the complaint. In this event the tenant
34 shall be entitled to a return of all prepaid rent and security.
35 A processing fee may be assessed by the local authority for

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1 reinstated licenses.

2 Sec. 3. Section 562A.13, Code 2013, is amended by adding the
3 following new subsection:

4 NEW SUBSECTION. 4A. The landlord or any person authorized
5 to enter into a rental agreement on the landlord's behalf shall
6 comply with the provisions of section 476.56A with regard to
7 energy cost disclosure forms for utility rates, charges, and
8 services to be paid by the tenant directly to the utility
9 company.

10 Sec. 4. APPLICABILITY. This Act applies to rental
11 agreements entered into on or after January 1, 2014.

12 EXPLANATION

13 This bill relates to the disclosure of energy costs to
14 tenants and prospective tenants of residential dwelling units.

15 The bill modifies provisions of existing Code section
16 465.56, relating to the provision of energy costs upon request
17 by a gas or electric utility with regard to the purchase or
18 rental of real property, to provide that the Code section
19 refers to ownership or prospective ownership of real property,
20 not the rental or prospective rental thereof.

21 The bill establishes a new Code section 476.56A relating
22 to the provision of energy cost disclosure statements in
23 connection with rental property. The bill provides that a
24 prospective tenant who would be responsible for the payment
25 of gas or electric energy costs with respect to the lease or
26 rental of residential real property, or an existing tenant
27 currently responsible for the payment of such costs, has the
28 right to obtain the amount of energy consumption and the cost
29 of that consumption for the dwelling unit for the preceding
30 12-month period from the landlord based upon information
31 supplied at no charge from the public utility furnishing gas or
32 electric service.

33 The bill provides that the energy cost information will
34 be provided on a disclosure statement furnished by the
35 landlord utilizing a form developed by the office of consumer

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1 advocate. The bill specifies that the form shall contain
2 space for the disclosure of the annual amount of energy
3 consumption and the cost of that consumption, and shall also
4 include a representative list of energy efficiency standards
5 incorporating features or upgrades which a dwelling unit or
6 the building of which it is a part might conceivably exhibit
7 or offer. The office is directed to develop the list of energy
8 efficiency standards in consultation with state and federal
9 energy efficiency agencies and experts. The list shall be
10 accompanied by a space for notation by the landlord indicating
11 whether or not the unit or building meets or exceeds each
12 standard. The bill provides that the office of the consumer
13 advocate and local housing authorities responsible for the
14 issuance of residential rental property permits shall post and
15 maintain the recommended standards, and detailed information on
16 how to comply with them, on an internet site maintained by the
17 office and the local housing authority.

18 The bill provides that prior to a prospective tenant
19 entering into a rental agreement or paying a rental deposit
20 with respect to a dwelling unit, the landlord shall obtain the
21 prospective tenant's signature on the disclosure statement, and
22 sign the statement. The landlord is required to retain the
23 statement for a minimum of three years.

24 The bill directs the Iowa utilities board, in consultation
25 with the office of the consumer advocate, to adopt rules
26 to administer the bill's provisions. The bill states that
27 in addition to any other remedy available pursuant to Code
28 chapter 562A (Uniform Residential Landlord and Tenant Act),
29 upon receipt of a complaint filed by a prospective or existing
30 tenant that the bill's provisions are not being complied with,
31 a local housing authority shall suspend the rental license
32 for any unit for which an energy disclosure statement is not
33 provided upon expiration of a seven-day period following
34 notification to the landlord of the complaint. In this event,
35 the bill states that a tenant shall be entitled to the return

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1 of all prepaid rent and any security deposit. A processing fee
2 may be assessed by the local authority for reinstated licenses.

3 The bill amends Code section 562A.13, regarding required
4 landlord disclosures to tenants, to require that a landlord
5 or any person authorized to enter into a rental agreement on
6 the landlord's behalf complies with the bill's provisions with
7 regard to energy cost disclosure forms for utility rates,
8 charges, and services to be paid by a tenant directly to a
9 utility company.

10 The bill references existing definitions of "dwelling unit",
11 "landlord", "rental agreement", "rental deposit", and "tenant"
12 as meaning the same as defined in Code section 562A.6, and adds
13 that "landlord" shall include any person authorized to enter
14 into a rental agreement on the landlord's behalf.

15 The bill's provisions are applicable to rental agreements
16 entered into on or after January 1, 2014.



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House File 57 - Introduced

HOUSE FILE 57

BY WINDSCHITL, KLEIN,
VANDER LINDEN, HEARTSILL,
LANDON, FRY, GARRETT,
HUSEMAN, DOLECHECK,
WORTHAN, BRANDENBURG,
FISHER, BACON, WATTS,
DEYOE, HAGENOW, ALONS,
COSTELLO, STANERSON,
HIGHFILL, PETTENGILL,
R. TAYLOR, BAUDLER,
FORRISTALL, SHEETS, SALMON,
MAXWELL, JORGENSEN, HESS,
GASSMAN, SCHULTZ, and SANDS

A BILL FOR

1 An Act relating to the justifiable use of reasonable force and
2 providing a remedy.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TL5B 1074YH (4) 85
jm/rj



Iowa General Assembly
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H.F. 57

1 Section 1. Section 704.1, Code 2013, is amended to read as
2 follows:

3 **704.1 Reasonable force.**

4 1. "Reasonable force" is means that force and no more which
5 a reasonable person, in like circumstances, would judge to
6 be necessary to prevent an injury or loss and can include
7 deadly force if it is reasonable to believe that such force is
8 necessary to avoid injury or risk to one's life or safety or
9 the life or safety of another, or it is reasonable to believe
10 that such force is necessary to resist alike force or threat.

11 2. Reasonable force, including deadly force, may be used
12 even if an alternative course of action is available if the
13 alternative entails a risk to life or safety, or the life or
14 safety of a third party, or requires one to abandon or retreat
15 from one's dwelling or place of business or employment.

16 3. A person may be wrong in the estimation of the danger or
17 the force necessary to repel the danger as long as there is a
18 reasonable basis for the belief of the person and the person
19 acts reasonably in the response to that belief.

20 4. A person who is not engaged in illegal activity has no
21 duty to retreat from any place where the person is lawfully
22 present before using force as specified in this chapter.
23 A finder of fact shall not be permitted to consider the
24 possibility of retreat as a factor in determining whether or
25 not a person who used force reasonably believed that the force
26 was necessary to prevent injury, loss, or risk to life or
27 safety.

28 Sec. 2. Section 704.2, Code 2013, is amended by adding the
29 following new unnumbered paragraph:

30 NEW UNNUMBERED PARAGRAPH. A threat to cause serious injury
31 or death, by the production, display, or brandishing of a
32 deadly weapon, is not deadly force, as long as the actions of
33 the person are limited to creating an expectation that the
34 person may use deadly force to defend oneself, another, or as
35 otherwise authorized by law.

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1 Sec. 3. NEW SECTION. **704.2A** Justifiable use of deadly
2 **force.**

3 1. For purposes of this chapter, a person is presumed to
4 reasonably believe that deadly force is necessary to avoid
5 injury or risk to one's life or safety or the life or safety of
6 another in either of the following circumstances:

7 a. The person against whom force is used, at the time the
8 force is used, is doing any of the following:

9 (1) Unlawfully entering by force or stealth, or has
10 unlawfully entered by force or stealth and remains within the
11 dwelling, place of business or employment, or occupied vehicle
12 of the person using force.

13 (2) Unlawfully removing or is attempting to unlawfully
14 remove another person against the other person's will from the
15 dwelling, place of business or employment, or occupied vehicle
16 of the person using force.

17 b. The person using force knows or has reason to believe
18 that any of the conditions set forth in paragraph "a" are
19 occurring or have occurred.

20 2. The presumption set forth in subsection 1 does not
21 apply if, at the time force is used, any of the following
22 circumstances are present:

23 a. The person using defensive force is engaged in a
24 criminal offense, is attempting to escape from the scene of a
25 criminal offense that the person has committed, or is using the
26 dwelling, place of business or employment, or occupied vehicle
27 to further a criminal offense.

28 b. The person sought to be removed is a child or grandchild
29 or is otherwise in the lawful custody or under the lawful
30 guardianship of the person against whom force is used.

31 c. The person against whom force is used is a peace officer
32 who has entered or is attempting to enter a dwelling, place
33 of business or employment, or occupied vehicle in the lawful
34 performance of the peace officer's official duties, and the
35 person using force knows or reasonably should know that the

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1 person who has entered or is attempting to enter is a peace
2 officer.

3 *d.* The person against whom the force is used has the right
4 to be in, or is a lawful resident of, the dwelling, place of
5 business or employment, or occupied vehicle of the person using
6 force, and a protective or no-contact order is not in effect
7 against the person against whom the force is used.

8 Sec. 4. Section 704.3, Code 2013, is amended to read as
9 follows:

10 **704.3 Defense of self or another.**

11 A person is justified in the use of reasonable force when
12 the person reasonably believes that such force is necessary to
13 defend oneself or another from any actual or imminent use of
14 unlawful force.

15 Sec. 5. NEW SECTION. **704.4A Immunity for justifiable use of**
16 **force.**

17 1. As used in this section, "*criminal prosecution*" means
18 arrest, detention, charging, or prosecution.

19 2. A person who uses reasonable force pursuant to this
20 chapter shall be immune from any criminal prosecution or civil
21 action for using such force.

22 3. A law enforcement agency may use standard investigating
23 procedures for investigating the use of force, but the law
24 enforcement agency shall not arrest a person for using force
25 unless the law enforcement agency determines there is probable
26 cause that the force was unlawful under this chapter.

27 4. The court shall award reasonable attorney fees, court
28 costs, compensation for loss of income, and all expenses
29 incurred by the defendant in defense of any civil action
30 brought by the plaintiff if the court finds that the defendant
31 is immune from prosecution as provided in subsection 2.

32 Sec. 6. Section 704.7, Code 2013, is amended to read as
33 follows:

34 **704.7 Resisting ~~forcible~~ violent felony.**

35 1. As used in this section, "*violent felony*" means any

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1 felonious sexual abuse involving compulsion or the use of a
2 weapon or any felonious assault, murder, kidnapping, robbery,
3 arson, or burglary.

4 2. A person who ~~knows~~ reasonably believes that a ~~forcible~~
5 violent felony is being or will imminently be perpetrated is
6 justified in using, ~~against the perpetrator,~~ reasonable force,
7 including deadly force, against the perpetrator or perpetrators
8 to prevent the completion of or terminate the perpetration of
9 that felony.

10 Sec. 7. REPEAL. Section 707.6, Code 2013, is repealed.

11 EXPLANATION

12 Current law provides that a person may use reasonable force,
13 including deadly force, even if an alternative course of action
14 is available if the alternative entails a risk of life or
15 safety, or the life or safety of a third party, or requires one
16 to abandon or retreat from one's residence or place of business
17 or employment.

18 This bill provides that a person may use reasonable force,
19 including deadly force, if it is reasonable to believe such
20 force is necessary to avoid injury or risk to one's life or
21 safety or the life or safety of another, even if an alternative
22 course of action is available if the alternative entails a risk
23 to life or safety, or the life or safety of a third party.

24 The bill provides that a person may be wrong in the
25 estimation of the danger or the force necessary to repel the
26 danger as long as there is a reasonable basis for the belief
27 and the person acts reasonably in the response to that belief.

28 The bill further provides that a person who is not engaged in
29 an illegal activity has no duty to retreat from any place where
30 the person is lawfully present before using force. The bill
31 prohibits a finder of fact from considering the possibility of
32 retreat as a factor in determining whether or not a person who
33 used force reasonably believed that the force was necessary to
34 prevent injury, loss, or risk to life or safety.

35 The bill provides that a threat to cause serious injury

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1 or death by the production, display, or brandishing of a
2 deadly weapon, is not deadly force, as long as the actions of
3 the person are limited to creating an expectation that the
4 person may use deadly force to defend oneself, another, or as
5 otherwise authorized by law.

6 The bill creates presumptions for the justifiable use of
7 deadly force in certain circumstances.

8 Under the bill, a person is presumed to be justified in
9 using deadly force if the person reasonably believes that
10 deadly force is necessary to avoid injury or risk to one's
11 life or safety or the life or safety of another under the
12 following circumstances: the person against whom force is used
13 is unlawfully entering by force or stealth, or has unlawfully
14 entered by force or stealth and remains within a dwelling,
15 place of business or employment, or occupied vehicle of the
16 person using force; or the person against whom force is used
17 is unlawfully removing or attempting to remove another person
18 against the other person's will from a dwelling, place of
19 business or employment, or occupied vehicle of the person using
20 force. In addition, the person using force must know or have
21 reason to believe that the aforementioned circumstances are
22 occurring or have occurred.

23 The presumption of the use of justifiable deadly force
24 under the bill does not apply at the time force is used in the
25 following circumstances: the person using defensive force is
26 engaged in a criminal offense or activity; the person sought
27 to be removed is a child or grandchild or is otherwise in the
28 lawful custody of the person against whom force is used; the
29 person against whom force is used is a peace officer who has
30 entered or is attempting to enter a dwelling, place of business
31 or employment, or occupied vehicle in the lawful performance
32 of the peace officer's official duties, and the person using
33 force knows or reasonably should know that the person who has
34 entered or is attempting to enter is a peace officer; or the
35 person against whom force is used has the right to be in, or

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1 is a lawful resident of, the dwelling, place of business or
2 employment, or occupied vehicle of the person using force, and
3 a protective or no-contact order is not in effect against the
4 person against whom the force is used.

5 The bill provides that a person is justified in the use of
6 reasonable force when the person reasonably believes that such
7 force is necessary to defend oneself or another from any actual
8 as well as imminent use of unlawful force.

9 The bill also provides that a person who uses reasonable
10 force shall be immune from any criminal prosecution or civil
11 action for using such force.

12 Under the bill, a law enforcement agency shall not arrest a
13 person for using force unless it determines there is probable
14 cause that the force was unlawful under Code chapter 704.

15 The bill also provides that if a defendant is sued by a
16 plaintiff for using reasonable force, the court shall award the
17 defendant reasonable attorney fees, court costs, compensation
18 for loss of income, and expenses if the court finds the
19 defendant is immune from prosecution.

20 The bill also provides that a person who reasonably
21 believes that a violent felony is being or will imminently be
22 perpetrated is justified in using reasonable force, including
23 deadly force, against a perpetrator to prevent or terminate the
24 perpetration of that felony. The bill defines "violent felony"
25 to mean any felonious assault, murder, violent or forced sexual
26 abuse, kidnapping, robbery, arson, or burglary.



Iowa General Assembly
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House File 58 - Introduced

HOUSE FILE 58
BY WINDSCHITL

A BILL FOR

1 An Act relating to child support obligations and neglect or
2 abandonment of a child based on nonsupport, and providing
3 penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1090YH (7) 85
pf/rj



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1 Section 1. Section 598.21B, subsection 1, paragraph c, Code
2 2013, is amended to read as follows:

3 c. It is the intent of the general assembly that, to
4 the extent possible within the requirements of federal law,
5 the court and the child support recovery unit consider the
6 individual facts of each judgment or case in the application
7 of the guidelines and determine the support obligation
8 accordingly. It is also the intent of the general assembly
9 that in the supreme court's review of the guidelines, the
10 supreme court shall do ~~both~~ all of the following:

11 (1) Emphasize the ability of a court to apply the guidelines
12 in a just and appropriate manner based upon the individual
13 facts of a judgment or case.

14 (2) In determining monthly child support payments, consider
15 other children for whom either parent is legally responsible
16 for support and other child support obligations actually paid
17 by either party pursuant to a court or administrative order.

18 (3) Unless otherwise provided in subsection 2, establish a
19 minimum monthly child support payment of one hundred dollars.

20 Sec. 2. Section 726.3, Code 2013, is amended to read as
21 follows:

22 **726.3 Neglect or abandonment of a dependent person.**

23 1. A person who is the father, mother, or some other person
24 having custody of a child, or of any other person who by
25 reason of mental or physical disability is not able to care
26 for the person's self, who knowingly or recklessly exposes
27 such person to a hazard or danger against which such person
28 cannot reasonably be expected to protect such person's self or
29 who deserts or abandons such person, knowing or having reason
30 to believe that the person will be exposed to such hazard or
31 danger, commits a class "C" felony. However, a parent or
32 person authorized by the parent shall not be prosecuted for a
33 violation of this section involving abandonment of a newborn
34 infant, if the parent or the person authorized by the parent
35 has voluntarily released custody of the newborn infant in

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1 accordance with section 233.2.

2 2. Notwithstanding the amount specified in section 726.5, a
3 person who commits nonsupport pursuant to section 726.5 in an
4 amount greater than two thousand dollars commits abandonment.
5 A person who commits abandonment under this subsection is
6 guilty of an aggravated misdemeanor.

7 3. Notwithstanding the amount specified in section 726.5, a
8 person who commits nonsupport pursuant to section 726.5 in an
9 amount greater than ten thousand dollars commits neglect. A
10 person who commits neglect under this subsection is guilty of a
11 class "C" felony.

12 EXPLANATION

13 This bill relates to child support obligations.

14 The bill provides that it is the intent of the general
15 assembly that the minimum monthly child support payment be
16 established at \$100, unless it is unjust or inappropriate or
17 unless the parent is 19 years of age or younger and other
18 special circumstances apply.

19 Current law provides, in Code section 726.5, that a person
20 who commits nonsupport of a child or ward by failing or
21 refusing to provide for the person's child or ward under 18
22 years of age for a period longer than one year or in an amount
23 greater than \$5,000, is guilty of a class "D" felony. The bill
24 provides that a person who commits nonsupport of a child or a
25 ward in an amount greater than \$2,000 commits abandonment. A
26 person who commits abandonment as specified under the bill is
27 guilty of an aggravated misdemeanor.

28 The bill also provides that a person who commits nonsupport
29 of a child or ward in an amount greater than \$10,000 commits
30 neglect. A person who commits neglect as specified under the
31 bill is guilty of a class "C" felony.

32 An aggravated misdemeanor is punishable by confinement for
33 no more than two years and a fine of at least \$625 but not more
34 than \$6,250.

35 A class "C" felony is punishable by confinement for no more

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1 than 10 years and a fine of at least \$1,000 but not more than
2 \$10,000.



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House File 59 - Introduced

HOUSE FILE 59
BY ISENHART

A BILL FOR

1 An Act relating to energy efficiency efforts by state agencies
2 and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1189HH (2) 85
ec/sc



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1 Section 1. Section 8A.311, Code 2013, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 19A. A state agency shall be required to
4 purchase products that conform to energy star specifications
5 current at the time of contract or purchase if the product is
6 subject to energy star labeling.

7 Sec. 2. Section 8A.322, subsection 1, Code 2013, is amended
8 to read as follows:

9 1. The director shall provide necessary lighting, fuel, and
10 water services for the state laboratories facility in Ankeny
11 and for the state buildings and grounds located at the seat of
12 government, except the buildings and grounds referred to in
13 section 216B.3, subsection 6. Notwithstanding section 8.33,
14 moneys appropriated to the department for utility expenses that
15 remain unencumbered or unobligated at the close of the fiscal
16 year shall not revert but shall be transferred to the building
17 energy management fund created in section 473.19A to be used to
18 finance energy improvements to state-owned properties.

19 Sec. 3. DEPARTMENT OF ADMINISTRATIVE SERVICES — ENERGY
20 EFFICIENCY EFFORTS.

21 1. The department of administrative services shall
22 report to the general assembly and governor by November
23 15, 2013, regarding the feasibility of giving preference to
24 or requiring the purchase or lease of passenger cars with
25 a United States environmental protection agency estimated
26 highway-mileage rating of at least thirty-five miles per gallon
27 and electric-powered and natural gas-powered vehicles with
28 a United States environmental protection agency estimated
29 highway-mileage rating of at least forty-five miles per gallon.
30 The preference shall be determined on a fleetwide average
31 basis.

32 2. The department of administrative services shall provide
33 for least-cost lighting of state buildings and property
34 under its control and shall work with other state departments
35 and agencies responsible for the energy costs of buildings

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1 and property under their control to do the same, based on
2 minimizing energy use and the life-cycle costs of the energy
3 technology.

4 3. The department of administrative services shall
5 establish a program with other state agencies to replace or
6 deploy battery chargers and other smart power technology that
7 turns off the power source to the adapter or battery once the
8 battery is charged or cuts power to unused electrical devices.

9 Sec. 4. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
10 immediate importance, takes effect upon enactment.

11 EXPLANATION

12 This bill concerns energy efficiency efforts by state
13 agencies.

14 Code section 8A.311, concerning state agency purchasing, is
15 amended to require state agencies to purchase products that
16 conform to energy star specifications if the product is subject
17 to energy star labeling.

18 Code section 8A.322, concerning building and grounds under
19 the control of the department of administrative services, is
20 amended to provide that moneys appropriated to the department
21 for utility expenses that remain unexpended at the end
22 of a fiscal year do not revert but are transferred to the
23 building energy management fund to be used to finance energy
24 improvements to state-owned properties.

25 The bill also requires the department of administrative
26 services to submit a report to the general assembly and
27 governor by November 15, 2013, regarding the feasibility of
28 giving preference to or requiring the purchase or lease of
29 passenger cars with a high highway-mileage rating, to provide
30 for least-cost lighting of state buildings and property under
31 its control, and to establish a program with other state
32 agencies to replace or deploy battery chargers and other smart
33 power technology.

34 The bill takes effect upon enactment.



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House File 60 - Introduced

HOUSE FILE 60
BY WATTS

A BILL FOR

1 An Act relating to the approval and imposition of local option
2 taxes and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 423B.1, subsection 1, Code 2013, is
2 amended to read as follows:
3 1. A city or county may impose by ordinance of the governing
4 body of the city or the board of supervisors local option taxes
5 authorized by this chapter, subject to this section ~~and subject~~
6 ~~to the exception provided in subsection 2.~~
7 Sec. 2. Section 423B.1, subsection 2, Code 2013, is amended
8 by striking the subsection.
9 Sec. 3. Section 423B.1, subsection 3, Code 2013, is amended
10 to read as follows:
11 3. A local option tax shall be imposed only after an
12 election at which a majority of those voting on the question
13 favors imposition and shall then be imposed until repealed
14 as provided in subsection 6, paragraph "a". If the tax is
15 a local vehicle tax imposed by a county, it shall apply to
16 all incorporated and unincorporated areas of the county.
17 If the tax is a local sales and services tax imposed by a
18 county, it shall only apply to ~~those incorporated areas and~~
19 ~~the unincorporated area of that county in which~~ if a majority
20 of those voting in the unincorporated area on the tax favors
21 its imposition and if the tax is a local sales and services
22 tax imposed by a city it shall only apply to the city if a
23 majority of those voting in the city on the tax favors its
24 imposition. ~~For purposes of the local sales and services tax,~~
25 ~~all cities contiguous to each other shall be treated as part of~~
26 ~~one incorporated area and the tax would be imposed in each of~~
27 ~~those contiguous cities only if the majority of those voting~~
28 ~~in the total area covered by the contiguous cities favors its~~
29 ~~imposition. In the case of a local sales and services tax~~
30 ~~submitted to the registered voters of two or more contiguous~~
31 ~~counties as provided in subsection 4, paragraph "c", all cities~~
32 ~~contiguous to each other shall be treated as part of one~~
33 ~~incorporated area, even if the corporate boundaries of one or~~
34 ~~more of the cities include areas of more than one county, and~~
35 ~~the tax shall be imposed in each of those contiguous cities~~



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1 ~~only if a majority of those voting on the tax in the total area~~
2 ~~covered by the contiguous cities favored its imposition. For~~
3 ~~purposes of the local sales and services tax, a city is not~~
4 ~~contiguous to another city if the only road access between the~~
5 ~~two cities is through another state.~~

6 Sec. 4. Section 423B.1, subsection 4, paragraphs a and b,
7 Code 2013, are amended to read as follows:

8 a. A county board of supervisors shall direct within
9 thirty days the county commissioner of elections to submit the
10 question of imposition of a local vehicle tax ~~or a local sales~~
11 ~~and services tax~~ to the registered voters of the incorporated
12 and unincorporated areas of the county upon receipt by the
13 board of supervisors of a petition, requesting imposition of
14 a local vehicle tax ~~or a local sales and services tax~~, signed
15 by eligible electors of the ~~whole~~ county equal in number to
16 five percent of the persons in the ~~whole~~ county who voted at
17 the last preceding ~~state~~ general election. A county board
18 of supervisors shall direct within thirty days the county
19 commissioner of elections to submit the question of imposition
20 of a local sales and services tax to the registered voters
21 of a city or of the unincorporated area of the county upon
22 receipt by the board of supervisors of a petition, requesting
23 imposition of a local sales and services tax, signed by
24 eligible electors of the city or of the unincorporated area of
25 the county, as applicable, equal in number to five percent of
26 the persons in the applicable city or unincorporated area of
27 the county who voted at the last preceding general election.
28 In the case of a local vehicle tax, the petition requesting
29 imposition shall specify the rate of tax and the classes, if
30 any, that are to be exempt. In the case of a local sales and
31 services tax, the petition requesting imposition shall state
32 the period of time the tax will be imposed, not to exceed
33 ten years. If more than one valid petition is received, the
34 earliest received petition shall be used.

35 b. The question of the imposition of a local sales and



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1 services tax shall be submitted to the registered voters of
2 the ~~incorporated and~~ city or of the unincorporated areas
3 area of the county upon receipt by the county commissioner
4 of elections of ~~the a~~ a motion or motions, requesting such
5 submission, adopted by the governing body ~~or bodies~~ of the a
6 city or cities located within the county or of the county, for
7 the unincorporated ~~areas~~ area of the county, ~~representing at~~
8 ~~least one half of the population of the county.~~ The motion
9 shall state the period of time the tax will be imposed, not to
10 exceed ten years. Upon adoption of such motion, the governing
11 body of the city or county, for the unincorporated ~~areas,~~
12 area shall submit the motion to the county commissioner of
13 elections ~~and in the case of the governing body of the city~~
14 ~~shall notify the board of supervisors of the adoption of the~~
15 ~~motion.~~ The county commissioner of elections shall ~~keep a file~~
16 ~~on all the motions received and, upon reaching the population~~
17 ~~requirements, shall~~ publish notice of the ballot proposition
18 concerning the imposition of the local sales and services tax.
19 ~~A motion ceases to be valid at the time of the holding of the~~
20 ~~regular election for the election of members of the governing~~
21 ~~body which adopted the motion.~~ The county commissioner of
22 ~~elections shall eliminate from the file any motion that ceases~~
23 ~~to be valid.~~ The manner provided under this paragraph for
24 the submission of the question of imposition of a local sales
25 and services tax is an alternative to the manner provided in
26 paragraph "a".

27 Sec. 5. Section 423B.1, subsection 4, paragraph c, Code
28 2013, is amended by striking the paragraph and inserting in
29 lieu thereof the following:

30 c. A city is considered to be located in a county if over
31 half of the population of the city is located in that county.

32 Sec. 6. Section 423B.1, subsection 5, Code 2013, is amended
33 to read as follows:

34 5. The county commissioner of elections shall submit the
35 question of imposition of a local option tax at an election

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1 held on a date specified in section 39.2, subsection 4,
2 paragraph "a" or "b", as applicable. The election shall not
3 be held sooner than sixty days after publication of notice of
4 the ballot proposition. The ballot proposition shall specify
5 the type and rate of tax and, in the case of a vehicle tax, the
6 classes that will be exempt and, in the case of a local sales
7 and services tax, the date it will be imposed which date shall
8 not be earlier than ninety days following the election, and
9 the date of its repeal as stated in the petition or motion.
10 The ballot proposition shall also specify the approximate
11 amount of local option tax revenues that will be used for
12 property tax relief and shall contain a statement as to the
13 specific purpose or purposes for which the revenues shall
14 otherwise be expended. If the county board of supervisors or
15 city council, as applicable, decides under subsection 6 to
16 specify a date on which the local option sales and services tax
17 shall automatically be repealed that is less than ten years
18 from the date of the election, the date of the repeal shall
19 also be specified on the ballot. The rate of the vehicle tax
20 shall be in increments of one dollar per vehicle as set by the
21 petition seeking to impose the tax. The rate of a local sales
22 and services tax shall not be more than one percent as set by
23 the governing body. The state commissioner of elections shall
24 establish by rule the form for the ballot proposition which
25 form shall be uniform throughout the state.

26 Sec. 7. Section 423B.1, subsection 6, paragraph a, Code
27 2013, is amended to read as follows:

28 a. (1) If a majority of those voting on the question of
29 imposition of a local ~~option~~ vehicle tax favors imposition of
30 a local ~~option~~ vehicle tax, the governing body of that county
31 shall impose the tax at the rate specified for an unlimited
32 period. ~~However, in the case of a local sales and services~~
33 ~~tax, the county shall not impose the tax in any incorporated~~
34 ~~area or the unincorporated area if the majority of those~~
35 ~~voting on the tax in that area did not favor its imposition.~~

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~~1 For purposes of the local sales and services tax, all cities~~
~~2 contiguous to each other shall be treated as part of one~~
~~3 incorporated area and the tax shall be imposed in each of those~~
~~4 contiguous cities only if the majority of those voting on the~~
~~5 tax in the total area covered by the contiguous cities favored~~
~~6 its imposition. In the case of a local sales and services tax~~
~~7 submitted to the registered voters of two or more contiguous~~
~~8 counties as provided in subsection 4, paragraph "c", all cities~~
~~9 contiguous to each other shall be treated as part of one~~
~~10 incorporated area, even if the corporate boundaries of one or~~
~~11 more of the cities include areas of more than one county, and~~
~~12 the tax shall be imposed in each of those contiguous cities~~
~~13 only if a majority of those voting on the tax in the total area~~
~~14 covered by the contiguous cities favored its imposition. If~~
~~15 a majority of those voting on the question of imposition of a~~
~~16 local option sales and services tax favors imposition of the~~
~~17 tax, the governing body of the city or county, as applicable,~~
~~18 shall impose by ordinance the tax at the rate specified for~~
~~19 a period of ten years, unless a shorter period of time is~~
~~20 specified on the ballot.~~

21 (2) The local option tax may be repealed or the rate
22 increased or decreased or the use thereof changed after an
23 election at which a majority of those voting on the question
24 of repeal or rate or use change favored the repeal or rate
25 or use change. The date on which the repeal, rate, or use
26 change is to take effect shall not be earlier than ninety days
27 following the election. The election at which the question
28 of repeal or rate or use change is offered shall be called
29 and held in the same manner and under the same conditions
30 as provided in subsections 4 and 5 for the election on the
31 imposition of the local option tax. ~~However, in the case of a~~
~~32 local sales and services tax where the tax has not been imposed~~
~~33 countywide, the question of repeal or imposition or rate or~~
~~34 use change shall be voted on only by the registered voters of~~
~~35 the areas of the county where the tax has been imposed or has~~

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1 ~~not been imposed, as appropriate.~~ However, the governing body
2 of the ~~incorporated area~~ city or unincorporated area where
3 the local sales and services tax is imposed may, upon its own
4 motion, request the county commissioner of elections to hold
5 an election in the ~~incorporated area~~ city or unincorporated area,
6 as appropriate, on the question of the change in use of local
7 sales and services tax revenues. The election may be held at
8 any time but not sooner than sixty days following publication
9 of the ballot proposition. If a majority of those voting in
10 the ~~incorporated area~~ city or unincorporated area on the change in
11 use favors the change, the governing body of that city or area
12 shall change the use to which the revenues shall be used. The
13 ballot proposition shall list the present use of the revenues,
14 the proposed use, and the date after which revenues received
15 will be used for the new use.

16 ~~(3) When submitting the question of the imposition of a~~
17 ~~local sales and services tax, the county board of supervisors~~
18 ~~may direct that the question contain a provision for the~~
19 ~~repeal, without election, of the local sales and services tax~~
20 ~~on a specific date, which date shall be as provided in section~~
21 ~~423B.6, subsection 1.~~

22 Sec. 8. Section 423B.1, Code 2013, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 6A. If a proposition for the imposition
25 of a local sales and services tax submitted to the voters
26 of a city or unincorporated area of a county under this
27 section fails to gain approval, the proposition shall not be
28 resubmitted to the voters of that jurisdiction in substantially
29 the same form for a period of three years following the date
30 of the election and may only be resubmitted to the voters on a
31 date specified in section 39.2, subsection 4, paragraph "a" or
32 "b", as applicable.

33 Sec. 9. Section 423B.1, subsection 7, paragraph b, Code
34 2013, is amended to read as follows:

35 b. Costs of local option tax elections shall be apportioned

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1 among jurisdictions within the county voting on the question
2 at the same election on a pro rata basis in proportion to the
3 number of registered voters in each taxing jurisdiction voting
4 on the question and the total number of registered voters in
5 all of the taxing jurisdictions voting on the question.

6 Sec. 10. Section 423B.1, subsection 9, Code 2013, is amended
7 to read as follows:

8 9. a. In a county that has imposed a local ~~option~~ sales
9 and services tax in the unincorporated area of the county,
10 the board of supervisors shall, notwithstanding any contrary
11 provision of this chapter, repeal the local ~~option~~ sales and
12 services tax in the unincorporated areas ~~or in an incorporated~~
13 ~~city area in which the tax has been imposed~~ area upon adoption
14 of its own motion for repeal ~~in the unincorporated areas or~~
15 ~~upon receipt of a motion adopted by the governing body of~~
16 ~~that incorporated city area requesting repeal~~. The board of
17 supervisors shall repeal the local ~~option~~ sales and services
18 tax effective on the later of the date of the adoption of the
19 repeal motion or the earliest date specified in section 423B.6,
20 subsection 1. ~~For purposes of this subsection, incorporated~~
21 ~~city area includes an incorporated city which is contiguous to~~
22 ~~another incorporated city.~~

23 b. In a city that has imposed a local sales and services
24 tax, the governing body of the city shall, notwithstanding any
25 contrary provision of this chapter, repeal the local sales
26 and services tax in the city upon adoption of its own motion
27 for repeal. The governing body of the city shall repeal the
28 local sales and services tax effective on the later of the
29 date of the adoption of the repeal motion or the earliest date
30 specified in section 423B.6, subsection 1.

31 Sec. 11. Section 423B.5, unnumbered paragraph 1, Code 2013,
32 is amended to read as follows:

33 A local sales and services tax at the rate of not more than
34 one percent may be imposed by a city or county on the sales
35 price taxed by the state under chapter 423, subchapter II. A

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1 local sales and services tax shall be imposed on the same basis
2 as the state sales and services tax or in the case of the use
3 of natural gas, natural gas service, electricity, or electric
4 service on the same basis as the state use tax and shall not
5 be imposed on the sale of any property or on any service not
6 taxed by the state, except the tax shall not be imposed on
7 the sales price from the sale of motor fuel or special fuel
8 as defined in chapter 452A which is consumed for highway use
9 or in watercraft or aircraft if the fuel tax is paid on the
10 transaction and a refund has not or will not be allowed, on the
11 sales price from the sale of equipment by the state department
12 of transportation, or on the sales price from the sale or use
13 of natural gas, natural gas service, electricity, or electric
14 service in a city or county where the sales price from the sale
15 of natural gas or electric energy is subject to a franchise
16 fee or user fee during the period the franchise or user fee
17 is imposed. A local sales and services tax is applicable
18 to transactions within ~~those incorporated and~~ the city or
19 ~~unincorporated areas~~ area of the county where it is imposed and
20 shall be collected by all persons required to collect state
21 sales taxes. ~~All cities contiguous to each other shall be~~
22 ~~treated as part of one incorporated area and the tax would be~~
23 ~~imposed in each of those contiguous cities only if the majority~~
24 ~~of those voting in the total area covered by the contiguous~~
25 ~~cities favors its imposition. In the case of a local sales and~~
26 ~~services tax submitted to the registered voters of two or more~~
27 ~~contiguous counties as provided in section 423B.1, subsection~~
28 ~~4, paragraph "c", all cities contiguous to each other shall be~~
29 ~~treated as part of one incorporated area, even if the corporate~~
30 ~~boundaries of one or more of the cities include areas of more~~
31 ~~than one county, and the tax shall be imposed in each of those~~
32 ~~contiguous cities only if a majority of those voting on the tax~~
33 ~~in the total area covered by the contiguous cities favored its~~
34 ~~imposition.~~

35 Sec. 12. Section 423B.5, unnumbered paragraph 4, Code 2013,

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1 is amended to read as follows:

2 If a local sales and services tax is imposed by a city or
3 county pursuant to this chapter, a local excise tax at the same
4 rate shall be imposed by the city or county on the purchase
5 price of natural gas, natural gas service, electricity, or
6 electric service subject to tax under chapter 423, subchapter
7 III, and not exempted from tax by any provision of chapter 423,
8 subchapter III. The local excise tax is applicable only to
9 the use of natural gas, natural gas service, electricity, or
10 electric service within those incorporated and unincorporated
11 areas of the county where it is imposed and, except as
12 otherwise provided in this chapter, shall be collected and
13 administered in the same manner as the local sales and services
14 tax. For purposes of this chapter, "*local sales and services*
15 *tax*" shall also include the local excise tax.

16 Sec. 13. Section 423B.6, subsection 1, paragraph b, Code
17 2013, is amended to read as follows:

18 *b.* A local sales and services tax shall be repealed only
19 on June 30 or December 31 but not sooner than ninety days
20 following the favorable election if one is held. However, a
21 local sales and services tax shall not be repealed before the
22 tax has been in effect for one year. At least forty days before
23 the imposition or repeal of the tax, a the city or county, as
24 applicable, shall provide notice of the action by certified
25 mail to the director of revenue.

26 Sec. 14. Section 423B.6, subsection 2, paragraph b, Code
27 2013, is amended to read as follows:

28 *b.* The ordinance of a governing body of a city or county
29 board of supervisors imposing a local sales and services
30 tax shall adopt by reference the applicable provisions of
31 the appropriate sections of chapter 423. All powers and
32 requirements of the director to administer the state sales tax
33 law and use tax law are applicable to the administration of
34 a local sales and services tax law and the local excise tax,
35 including but not limited to the provisions of section 422.25,

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1 subsection 4, sections 422.30, 422.67, and 422.68, section
2 422.69, subsection 1, sections 422.70 through 422.75, section
3 423.14, subsection 1 and subsection 2, paragraphs "b" through
4 "e", and sections 423.15, 423.23, 423.24, 423.25, 423.31
5 through 423.35, 423.37 through 423.42, 423.46, and 423.47.
6 Local officials shall confer with the director of revenue for
7 assistance in drafting the ordinance imposing a local sales and
8 services tax. A certified copy of the ordinance shall be filed
9 with the director as soon as possible after passage.

10 Sec. 15. Section 423B.6, subsection 3, paragraph b, Code
11 2013, is amended to read as follows:

12 b. All local tax moneys and interest and penalties received
13 or refunded one hundred eighty days or more after the date on
14 which the city or county repeals its local sales and services
15 tax shall be deposited in or withdrawn from the state general
16 fund.

17 Sec. 16. Section 423B.7, subsection 1, paragraph a, Code
18 2013, is amended to read as follows:

19 a. Except as provided in paragraph "b", the director
20 shall credit the local sales and services tax receipts and
21 interest and penalties from a county-imposed tax to the
22 county's account in the local sales and services tax fund
23 and from a city-imposed tax ~~under section 423B.1, subsection~~
24 ~~2,~~ to the city's account in the local sales and services tax
25 fund. If the director is unable to determine from which ~~county~~
26 jurisdiction any of the receipts were collected, those receipts
27 shall be allocated among the possible ~~counties~~ jurisdictions
28 based on allocation rules adopted by the director.

29 Sec. 17. Section 423B.7, subsections 3 and 4, Code 2013,
30 are amended by striking the subsections and inserting in lieu
31 thereof the following:

32 3. Each city or county's account shall be allocated to
33 and remitted to the city or county imposing the local sales
34 and services tax on the basis of the location where the tax
35 was collected. A city shall receive all such local sales and

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1 services tax collected within the corporate boundaries of the
2 city. A county shall receive all such local sales and services
3 tax collected in the unincorporated area of the county.

4 4. Each city or county where a local sales and services
5 tax is imposed pursuant to this chapter shall on an ongoing
6 basis assist the department of revenue in identifying retail
7 establishments within their jurisdiction that are collecting
8 the local sales and services tax. If the director is unable
9 to determine from which jurisdiction any of the receipts were
10 collected, those receipts shall be allocated among the possible
11 cities or counties based on allocation rules adopted by the
12 director.

13 Sec. 18. Section 423B.7, subsection 5, Code 2013, is amended
14 by striking the subsection.

15 Sec. 19. Section 423B.7, subsection 6, Code 2013, is amended
16 to read as follows:

17 6. From each special city account, the revenues shall be
18 remitted to the city council for deposit in the special fund
19 created in section 403.19, subsection 2, to be used by the city
20 as provided in section 423B.10. ~~The distribution from the~~
21 ~~special city account is not subject to the distribution formula~~
22 ~~provided in subsections 3, 4, and 5.~~

23 Sec. 20. Section 423B.10, subsection 1, paragraph b, Code
24 2013, is amended to read as follows:

25 *b. "Eligible city" means a city in which a local sales and*
26 *services tax imposed by the city or county applies or a city*
27 *described in section 423B.1, subsection 2, paragraph "a", Code*
28 *2013, and in which an urban renewal area has been designated.*

29 Sec. 21. Section 423B.10, subsection 5, Code 2013, is
30 amended to read as follows:

31 5. In addition to the moneys received pursuant to the
32 ordinance authorized under subsection 2, an eligible city
33 may deposit any other local sales and services tax revenues
34 received by it pursuant to either the distribution formula
35 in section 423B.7, subsections 3, 4, and 5, Code 2013, for

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1 local taxes described in section 22, subsection 1, of this Act,
2 or section 423B.7, subsections 3 and 4, to the special fund
3 described in section 403.19, subsection 2.

4 Sec. 22. EFFECT OF ACT — CURRENT LOCAL OPTION TAXES.

5 1. This Act shall not affect the imposition and collection
6 of a local option tax imposed, or that will take effect, as
7 the result of a petition received or a motion approved under
8 chapter 423B prior to July 1, 2013.

9 2. Local taxes described in subsection 1 shall continue
10 to be collected and disbursed to the relevant tax-imposing
11 jurisdictions pursuant to the provisions of chapter 423B, Code
12 2013, until ten years after July 1, 2013, the repeal date
13 specified in the ordinance imposing the tax, the date when any
14 bonded indebtedness secured by the tax outstanding on July 1,
15 2013, is retired, or such time as the tax is repealed according
16 to the provisions of chapter 423B, Code 2013, whichever is
17 sooner.

18 Sec. 23. APPLICABILITY.

19 1. This Act applies to petitions received pursuant to
20 section 423B.1, subsection 4, paragraph "a", as amended in this
21 Act, on or after July 1, 2013.

22 2. This Act applies to motions adopted pursuant to section
23 423B.1, subsection 4, paragraph "b", as amended in this Act, on
24 or after July 1, 2013.

25 EXPLANATION

26 This bill relates to the approval and imposition of local
27 option taxes.

28 Current Code chapter 423B authorizes the imposition of local
29 option taxes, including a local option sales and services tax.
30 Currently, such a proposed tax is only presented to the voters
31 of a whole county upon the filing of a petition signed by
32 eligible electors of the county equal in number to five percent
33 of the persons in the county who voted at the last preceding
34 general election or upon receipt by the county commissioner of
35 elections of motions requesting such submission, adopted by the

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1 governing bodies of the cities located within the county or the
2 governing body of the county for the unincorporated area of the
3 county, representing at least one-half of the population of the
4 county.

5 The bill amends the methods of seeking presentment of
6 the local option sales and services tax to the voters by
7 allowing the eligible electors of individual cities and the
8 unincorporated area of a county to file a petition for an
9 election to be held in the petitioning jurisdiction if such
10 petition is signed by eligible electors of the city or the
11 unincorporated area of the county, as applicable, equal in
12 number to five percent of the persons in the applicable city
13 or unincorporated area of the county who voted at the last
14 preceding general election.

15 The bill also removes the requirement that in order to have
16 the local sales and services tax presented to the voters,
17 motions must be approved by cities or the county for the
18 unincorporated area, representing at least one-half of the
19 county's population. Instead, the bill allows individual
20 cities or the county for the unincorporated area to approve a
21 motion for an election on the local sales and services tax to
22 be held in only that jurisdiction.

23 The bill consequently removes the requirements related to
24 approval of a ballot question by cities that are contiguous to
25 each other and special provisions related to the approval and
26 imposition of a local sales and services tax in a city that is
27 located in more than one county.

28 The bill provides that a local sales and services tax
29 approved by the voters may not be imposed for a period
30 exceeding 10 years. In addition, the bill provides that if a
31 proposition for the imposition of a local sales and services
32 tax submitted to the voters of a city or the unincorporated
33 area of a county fails to gain approval, it shall not be
34 resubmitted to the voters of that jurisdiction in substantially
35 the same form for a period of three years following the

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1 election and may only be resubmitted on a day specified in
2 statute for special elections of a city or county.

3 Current Code section 423B.7 specifies the allocation
4 formula for local sales and services tax revenue among the
5 jurisdictions imposing the tax within a county. Seventy-five
6 percent of each county's account containing such tax revenue
7 is remitted to the tax-imposing jurisdictions on the basis of
8 the county's population residing in the unincorporated area
9 where the tax is imposed and those incorporated areas where
10 the tax is imposed and 25 percent of each county's account is
11 remitted based on the sum of property tax dollars levied in
12 the incorporated areas and unincorporated area where the tax
13 is imposed.

14 The bill strikes this allocation formula for local sales and
15 services taxes newly imposed after July 1, 2013, and provides
16 that each county's account shall be allocated to and remitted
17 to the jurisdictions imposing the local sales and services tax
18 on the basis of the location where the tax was collected. A
19 city receives all local sales and services tax collected in
20 the city and the county receives all local sales and services
21 tax collected in the unincorporated area of the county. The
22 bill imposes a duty on each city or county where a local sales
23 and services tax is imposed to assist the department of revenue
24 in identifying retail establishments within their jurisdiction
25 that are collecting the local sales and services tax.

26 The bill does not affect the imposition and collection of a
27 local tax imposed, or that will take effect, as the result of
28 a petition received or a motion approved before July 1, 2013.
29 Such local taxes will continue to be collected and disbursed
30 to the relevant tax-imposing jurisdictions pursuant to the
31 provisions of Code chapter 423B, Code 2013, until 10 years
32 after July 1, 2013, the repeal date specified in the ordinance
33 imposing the tax, the date when bonded indebtedness secured
34 by the tax is retired, or such time as the tax is repealed,
35 whichever is sooner.

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1 The bill applies to petitions and motions for the imposition
2 of local option taxes received or adopted under Code chapter
3 423B, as amended in the bill, on or after July 1, 2013.



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House Joint Resolution 4 - Introduced

HOUSE JOINT RESOLUTION 4
BY WINDSCHITL, KLEIN,
VANDER LINDEN, HIGHFILL,
LANDON, HEARTSILL, J.
SMITH, GASSMAN, FRY,
COSTELLO, BRANDENBURG,
GARRETT, HUSEMAN,
DOLECHECK, WORTHAN, FISHER,
DEYOE, BACON, WATTS,
HAGENOW, ALONS, STANERSON,
PETTENGILL, R. TAYLOR,
S. OLSON, FORRISTALL,
SHEETS, SALMON, MAXWELL,
JORGENSEN, HESS, SCHULTZ,
and SANDS

HOUSE JOINT RESOLUTION

1 A Joint Resolution proposing an amendment to the Constitution
2 of the State of Iowa relating to an individual's right to
3 acquire, keep, possess, transport, carry, transfer, and use
4 arms.
5 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1093YH (2) 85
rh/rj



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H.J.R. 4

1 Section 1. The following amendment to the Constitution of
2 the State of Iowa is proposed:

3 Article I of the Constitution of the State of Iowa is amended
4 by adding the following new section:

5 **Right to acquire, keep, possess, transport, carry, transfer,**
6 **and use arms.** SEC. 1A. The right of an individual to acquire,
7 keep, possess, transport, carry, transfer, and use arms to
8 defend life and liberty and for all other legitimate purposes
9 is fundamental and shall not be infringed upon or denied.

10 Mandatory licensing, registration, or special taxation as a
11 condition of the exercise of this right is prohibited, and any
12 other restriction shall be subject to strict scrutiny.

13 Sec. 2. REFERRAL AND PUBLICATION. The foregoing proposed
14 amendment to the Constitution of the State of Iowa is referred
15 to the general assembly to be chosen at the next general
16 election for members of the general assembly and the secretary
17 of state is directed to cause the same to be published for
18 three consecutive months previous to the date of that election
19 as provided by law.

20 EXPLANATION

21 This joint resolution proposes an amendment to the
22 Constitution of the State of Iowa providing that the right of
23 an individual to acquire, keep, possess, transport, carry,
24 transfer, and use arms to defend life and liberty and for all
25 other legitimate purposes is fundamental and shall not be
26 infringed upon or denied. Mandatory licensing, registration,
27 or special taxation as a condition of the exercise of this
28 right is prohibited, and any other restriction shall be subject
29 to strict scrutiny.

30 The joint resolution, if adopted, would be referred to the
31 next general assembly for adoption a second time before being
32 submitted to the electorate for ratification.



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House Study Bill 31 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act requiring in-state construction contracts and disputes
2 thereof to be governed by Iowa law.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1607YC (2) 85
je/nh



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1 Section 1. NEW SECTION. 537A.6 In-state construction
2 contracts — Iowa law to govern.

3 1. As used in this section, "*in-state construction*
4 *contract*" means a public, private, foreign, or domestic
5 agreement relating to construction, alteration, repair, or
6 maintenance of any real property in this state and includes
7 agreements for architectural services, demolition, design
8 services, development, engineering services, excavation, or any
9 other improvement to real property in this state, including
10 buildings, shafts, wells, and structures, whether on, above, or
11 under real property in this state.

12 2. A provision of an in-state construction contract is void
13 and unenforceable as contrary to public policy if the provision
14 does any of the following:

15 a. Makes the in-state construction contract subject to the
16 laws of another state.

17 b. Requires any litigation arising from the in-state
18 construction contract to be conducted in another state.

19 3. Any mediation, arbitration, or other dispute resolution
20 proceeding arising from or relating to an in-state construction
21 contract shall be conducted in this state.

22 EXPLANATION

23 This bill provides that a provision of an in-state
24 construction contract is void and unenforceable as contrary to
25 public policy if the provision makes the contract subject to
26 the laws of another state or requires any litigation arising
27 from the contract to be conducted in another state. The bill
28 also requires any mediation, arbitration, or other dispute
29 resolution proceeding arising from or relating to an in-state
30 construction contract to be conducted in this state.

31 "In-state construction contract", as defined in the bill,
32 means a public, private, foreign, or domestic agreement
33 relating to construction, alteration, repair, or maintenance
34 of any real property in this state and includes agreements
35 for architectural services, demolition, design services,

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1 development, engineering services, excavation, or any
2 other improvement to real property in this state, including
3 buildings, shafts, wells, and structures, whether on, above, or
4 under real property in this state.



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House Study Bill 32 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to the penalties for the criminal offense of
2 sexual exploitation of a minor by the purchase or possession
3 of child pornography.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1456YC (3) 85
jm/rj



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1 Section 1. Section 728.12, subsection 3, unnumbered
2 paragraph 1, Code 2013, is amended to read as follows:
3 It shall be unlawful to knowingly purchase or possess a
4 visual depiction of a minor engaging in a prohibited sexual
5 act or the simulation of a prohibited sexual act. A visual
6 depiction containing pictorial representations of different
7 minors shall be prosecuted and punished as separate offenses
8 for each pictorial representation of a different minor in the
9 visual depiction. However, violations of this subsection
10 involving multiple visual depictions of the same minor shall
11 be prosecuted and punished as one offense. A person who
12 commits a violation of this subsection commits an aggravated
13 misdemeanor a class "D" felony for a first offense and a
14 class "D" "C" felony for a second or subsequent offense. For
15 purposes of this subsection, an offense is considered a second
16 or subsequent offense if, prior to the person's having been
17 convicted under this subsection, any of the following apply:

18 EXPLANATION

19 This bill relates to the penalties for the criminal offense
20 of sexual exploitation of a minor by the purchase or possession
21 of child pornography.

22 The bill increases the criminal penalty for knowingly
23 purchasing or possessing a visual depiction of a minor engaged
24 in a prohibited sexual or simulated sexual act. For a first
25 offense violation, the bill increases the criminal penalty
26 from an aggravated misdemeanor to a class "D" felony. For a
27 second or subsequent violation, the bill increases the criminal
28 penalty from a class "D" felony to a class "C" felony.

29 Under the bill, by increasing the criminal penalty from a
30 class "D" felony to a class "C" felony, a person convicted
31 of a second or subsequent offense of sexual exploitation
32 of a minor in violation of Code section 728.12(3) is also
33 required to serve a special sentence for the rest of the
34 person's life under Code section 903B.1. Current law requires
35 a person convicted of a first or subsequent offense of sexual

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1 exploitation of a minor in violation of Code section 728.12(3)
2 to serve a 10-year special sentence under Code section 903B.2.
3 A person serving a special sentence is required to register
4 as a sex offender for a period equal to the term of the special
5 sentence, but in no case shall the person register as a sex
6 offender for less than 10 years pursuant to Code section
7 692A.106(2).

8 An aggravated misdemeanor is punishable by confinement for
9 no more than two years and a fine of at least \$625 but not more
10 than \$6,250. A class "D" felony is punishable by confinement
11 for no more than five years and a fine of at least \$750 but
12 not more than \$7,500. A class "C" felony is punishable by
13 confinement for no more than 10 years and a fine of at least
14 \$1,000 but not more than \$10,000.



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House Study Bill 33 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to the sentencing of minors convicted of
2 murder in the first degree and including effective date and
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1115YC (9) 85
jm/rj



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1 Section 1. Section 902.1, Code 2013, is amended to read as
2 follows:

3 **902.1 Class "A" felony.**

4 1. Upon a plea of guilty, a verdict of guilty, or a special
5 verdict upon which a judgment of conviction of a class "A"
6 felony may be rendered, the court shall enter a judgment of
7 conviction and shall commit the defendant into the custody of
8 the director of the Iowa department of corrections for the rest
9 of the defendant's life. Nothing in the Iowa corrections code
10 pertaining to deferred judgment, deferred sentence, suspended
11 sentence, or reconsideration of sentence applies to a class "A"
12 felony, and a person convicted of a class "A" felony shall not
13 be released on parole unless the governor commutes the sentence
14 to a term of years.

15 2. a. Notwithstanding subsection 1, a person convicted of
16 a class "A" felony, and who was under the age of eighteen at
17 the time the offense was committed shall be eligible for parole
18 after serving a minimum term of confinement of twenty-five
19 years.

20 ~~b. If a person is paroled pursuant to this subsection the~~
21 ~~person shall be subject to the same set of procedures set out~~
22 ~~in chapters 901B, 905, 906, and chapter 908, and rules adopted~~
23 ~~under those chapters for persons on parole.~~

24 ~~c.~~ b. A person convicted of murder in the first degree in
25 violation of section 707.2 shall not be eligible for parole
26 pursuant to this subsection.

27 3. a. Notwithstanding subsections 1 and 2, a person
28 convicted of murder in the first degree in violation of section
29 707.2 who was under the age of eighteen at the time the offense
30 was committed shall be eligible for parole after serving a
31 minimum term of confinement of sixty years, unless at the
32 time of sentencing the court finds substantial and compelling
33 reasons to impose a life sentence without the possibility of
34 parole.

35 b. If the court at the time of sentencing imposes a sentence

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1 of life without the possibility of parole, the judge shall
2 state on the record at the time of sentencing the substantial
3 and compelling reasons justifying a life sentence without the
4 possibility of parole. In determining whether to impose a
5 sentence of life without the possibility of parole, the court
6 shall consider all mitigating and aggravating factors including
7 but not limited to the following:

8 (1) The age of the person and the level of maturity at the
9 time of the offense.

10 (2) The degree of participation in the offense by the
11 person.

12 (3) The nature of the offense.

13 (4) The severity of the offense.

14 (5) The prior juvenile or criminal record of the person.

15 (6) The likelihood of the person to commit further juvenile
16 or criminal offenses.

17 (7) Any other information considered relevant by the court.

18 4. If a person is paroled pursuant to subsection 2 or 3, the
19 person shall be subject to the same set of procedures set out
20 in chapters 901B, 905, 906, and 908, and rules adopted under
21 those chapters for persons on parole.

22 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
23 immediate importance, takes effect upon enactment.

24 Sec. 3. APPLICABILITY. This Act applies to a person who
25 was under the age of eighteen at the time the murder in the
26 first degree was committed and who is convicted prior to, on,
27 or after the effective date of this Act.

28 EXPLANATION

29 This bill relates to the sentencing of class "A" felons
30 convicted of murder in the first degree.

31 Under current law, a class "A" felon who was under the age of
32 18 at the time the offense was committed shall be eligible for
33 parole after serving a minimum term of confinement of 25 years
34 if the person committed a class "A" felony other than murder in
35 the first degree in violation of Code section 707.2.

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1 Under the bill, a person convicted of murder in the first
2 degree in violation of Code section 707.2 who was under the age
3 of 18 at the time the offense was committed shall be eligible
4 for parole after serving a minimum term of confinement of
5 60 years, unless at the time of sentencing the court finds
6 "substantial and compelling reasons" to impose a life sentence
7 without the possibility of parole. The changes in the bill
8 are in response to the U.S. Supreme Court case of Miller v.
9 Alabama, 132 S.Ct. 2455 (2012).

10 Under the bill, the "substantial and compelling reasons"
11 to be considered by the court at the sentencing include the
12 following: the age of the person and the level of maturity at
13 the time of the offense; the degree of participation in the
14 offense by the person; the nature of the offense; the severity
15 of the offense; the prior juvenile or criminal record of the
16 person; the likelihood of the person to commit further juvenile
17 or criminal offenses; and any other information considered
18 relevant by the court.

19 The bill also takes effect upon enactment.

20 The bill applies to a person who commits murder in the first
21 degree while under the age of 18 and who is convicted prior to,
22 on, or after the effective date of the bill.



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House Study Bill 34 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
INSPECTIONS AND APPEALS
BILL)

A BILL FOR

1 An Act relating to the practices and procedures of the state
2 public defender.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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jm/rj



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1 Section 1. Section 815.9, subsection 4, paragraph b, Code
2 2013, is amended to read as follows:

3 b. If the appointed attorney is a private attorney or is
4 employed by a nonprofit organization, the state public defender
5 shall report to the clerk of the district court the amounts
6 of any approved claims for compensation and expenses paid on
7 behalf of a person receiving legal assistance after such claims
8 have been reviewed and paid by the state public defender unless
9 the appointed attorney is paid other than on an hourly rate
10 basis and the state public defender has notified the appointed
11 attorney that the attorney is responsible for reporting the
12 attorney's total hours of service plus expenses to the court.

13 Sec. 2. Section 815.9, subsection 4, Code 2013, is amended
14 by adding the following new paragraph:

15 NEW PARAGRAPH. c. If the appointed attorney has been
16 notified by the state public defender that the attorney is
17 responsible for reporting to the court the total hours of
18 service plus expenses incurred in providing legal assistance
19 to a person, the attorney shall submit a report to the court
20 in the same manner as a public defender submits a report
21 pursuant to paragraph "a". The amount of the attorney fees to
22 be included in the total cost of legal assistance required to
23 be reimbursed shall be calculated using the hours of service
24 stated in the report at the hourly rate of compensation
25 specified under section 815.7.

26 Sec. 3. Section 815.9, subsection 6, Code 2013, is amended
27 to read as follows:

28 6. If the person receiving legal assistance is acquitted
29 or has all charges dismissed in a criminal case or is a party
30 in a case other than a criminal case, the court shall order
31 the payment of all or a portion of the total costs and fees
32 incurred for legal assistance, to the extent the person is
33 reasonably able to pay, after an inquiry which includes notice
34 and reasonable opportunity to be heard.

35 Sec. 4. Section 815.10, subsection 4, Code 2013, is amended

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1 to read as follows:

2 4. The appointment of an attorney shall be on a rotational
3 or equalization basis, considering the experience of the
4 attorney and the difficulty of the case. The court may also
5 consider the geographic proximity of the attorney's office to
6 the courthouse and client.

7 Sec. 5. Section 815.10, Code 2013, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 7. The state public defender may adopt
10 rules setting forth additional uniform standard procedures for
11 the appointment of counsel and uniform forms for appointment.

12 Sec. 6. Section 815.10A, subsection 2, Code 2013, is amended
13 to read as follows:

14 2. Claims for compensation and reimbursement submitted
15 by an attorney ~~appointed after June 30, 2004, and claims for~~
16 any other expenses paid from the indigent defense fund are not
17 considered timely unless the claim is submitted to the state
18 public defender within forty-five days of ~~a withdrawal order,~~
19 ~~sentencing, acquittal, or dismissal, whichever is earliest,~~
20 ~~in a criminal case or the withdrawal order, final ruling, or~~
21 ~~dismissal, whichever is earliest, in any other type of case~~ the
22 date of service, as defined by the state public defender in
23 rules.

24 Sec. 7. Section 908.2A, subsection 2, Code 2013, is amended
25 to read as follows:

26 2. If the appointing authority determines counsel should be
27 appointed and all of the criteria apply in subsection 1, the
28 appointing authority shall appoint the state public defender's
29 designee pursuant to section 13B.4. If the state public
30 defender has not made a designation for the type of case or
31 the state public defender's designee is unable to handle the
32 case, a contract attorney with the state public defender may
33 be appointed to represent the alleged parole violator. If a
34 contract attorney is unavailable, an attorney who has agreed
35 to provide these services may be appointed. The appointed

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1 attorney shall apply to the state public defender for payment
2 in the manner prescribed by the state public defender.

3 EXPLANATION

4 This bill relates to the practices and procedures of the
5 state public defender.

6 If an appointed attorney is paid other than on an hourly
7 basis and the state public defender has notified the appointed
8 attorney to provide the reporting of the total hours of service
9 and expenses for each case to the court, the bill requires the
10 appointed attorney to provide such reporting to the court.

11 If an appointed attorney has been notified by the state
12 public defender that the attorney is responsible for reporting
13 to the court the total hours of service plus expenses incurred
14 in providing legal assistance to a person, the bill requires
15 the attorney to submit the report to the court in the same
16 manner as a public defender under Code section 815.9(4).

17 If an indigent person has all charges dismissed in a criminal
18 case, the bill requires the court to order payment of all or
19 a portion of the total costs and fees incurred for any legal
20 assistance to the extent the indigent person is reasonably able
21 to pay. Current law requires an indigent person to pay the
22 total costs and fees incurred to the extent the indigent person
23 is reasonably able to pay if the indigent person was acquitted
24 of the charges.

25 The bill permits the court to consider the geographic
26 proximity of the attorney's office to the courthouse and the
27 client when appointing an attorney to represent an indigent
28 person.

29 The bill allows the state public defender to adopt rules
30 setting forth additional uniform standard procedures for the
31 appointment of counsel and uniform forms for appointment.

32 The bill requires that any claims for expenses paid from
33 the indigent defense fund be submitted within 45 days of the
34 "date of service". The definition for the "date of service"
35 is found in 493 IAC 7.1. Current law only requires that claims

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1 for compensation and reimbursement be submitted within 45 days
2 of the date of service.

3 In a parole revocation case, if the appointing authority
4 determines an alleged parole violator is entitled to the
5 appointment of counsel, the bill requires that the appointing
6 authority first appoint the state public defender's designee,
7 and if the state public defender's designee is unavailable,
8 the appointing authority is required to appoint a contract
9 attorney with the state public defender. If a contract
10 attorney is unavailable, an attorney who has agreed to provide
11 representation to the alleged parole violator may be appointed.



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House Study Bill 35 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
WORKFORCE DEVELOPMENT BILL)

A BILL FOR

1 An Act relating to conformity with federal law concerning
2 unemployment insurance employer charges and claimant
3 misrepresentation regarding benefit overpayments, providing
4 a penalty, and including applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1129DP (4) 85
je/rj



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1 Section 1. Section 96.3, subsection 7, paragraph b,
2 subparagraph (1), Code 2013, is amended to read as follows:
3 (1) (a) If the department determines that an overpayment
4 has been made, the charge for the overpayment against the
5 employer's account shall be removed and the account shall
6 be credited with an amount equal to the overpayment from
7 the unemployment compensation trust fund and this credit
8 shall include both contributory and reimbursable employers,
9 notwithstanding section 96.8, subsection 5. The employer shall
10 not be relieved of charges if benefits are paid because the
11 employer or an agent of the employer failed to respond timely
12 or adequately to the department's request for information
13 relating to the payment of benefits. This prohibition
14 against relief of charges shall apply to both contributory and
15 reimbursable employers.
16 (b) However, provided the benefits were not received as the
17 result of fraud or willful misrepresentation by the individual,
18 benefits shall not be recovered from an individual if the
19 employer did not participate in the initial determination to
20 award benefits pursuant to section 96.6, subsection 2, and
21 an overpayment occurred because of a subsequent reversal on
22 appeal regarding the issue of the individual's separation
23 from employment. ~~The employer shall not be charged with the~~
24 ~~benefits.~~
25 Sec. 2. Section 96.16, subsection 4, Code 2013, is amended
26 to read as follows:
27 4. *Misrepresentation.*
28 a. An individual who, by reason of the nondisclosure or
29 misrepresentation by the individual or by another of a material
30 fact, has received any sum as benefits under this chapter
31 while any conditions for the receipt of benefits imposed by
32 this chapter were not fulfilled in the individual's case, or
33 while the individual was disqualified from receiving benefits,
34 shall, in the discretion of the department, either be liable
35 to have the sum deducted from any future benefits payable to

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1 the individual under this chapter or shall be liable to repay
2 to the department for the unemployment compensation fund, a
3 sum equal to the amount so received by the individual. If
4 the department seeks to recover the amount of the benefits by
5 having the individual pay to the department a sum equal to that
6 amount, the department may file a lien with the county recorder
7 in favor of the state on the individual's property and rights
8 to property, whether real or personal. The amount of the lien
9 shall be collected in a manner similar to the provisions for
10 the collection of past-due contributions in section 96.14,
11 subsection 3.

12 b. The department shall assess a penalty equal to fifteen
13 percent of the amount of a fraudulent overpayment. The penalty
14 shall be collected in the same manner as the overpayment. The
15 penalty shall be added to the amount of any lien filed pursuant
16 to paragraph "a" and shall not be deducted from any future
17 benefits payable to the individual under this chapter. Funds
18 received for overpayment penalties shall be deposited in the
19 unemployment trust fund.

20 Sec. 3. APPLICABILITY. The section of this Act amending
21 section 96.3, subsection 7, relating to relief of charges
22 applies to any overpayment determination issued on or after
23 July 1, 2013.

24 Sec. 4. APPLICABILITY. The section of this Act amending
25 section 96.16, subsection 4, providing a penalty relating to
26 fraudulent overpayment applies to any fraudulent overpayment
27 issued on or after July 1, 2013.

28 EXPLANATION

29 This bill conforms the state unemployment compensation law
30 to the requirements of sections 251 and 252 of the federal
31 Trade Adjustment Assistance Extension Act of 2011, Pub. L. No.
32 112-40.

33 The bill prohibits the department of workforce development
34 from relieving an employer of charges against the employer's
35 account for an overpayment of unemployment compensation

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1 benefits if the overpayment occurred because the employer or an
2 agent of the employer failed to respond timely or adequately
3 to the department's request for information relating to the
4 payment of the benefits.

5 The bill removes the prohibition against charging an
6 employer's account for an overpayment of unemployment
7 compensation benefits when the overpayment is not recovered
8 from the claimant because the employer did not participate in
9 an initial determination to award benefits and the overpayment
10 occurred because of a subsequent reversal on appeal regarding
11 the issue of the claimant's separation from employment.

12 The bill establishes a penalty on individuals who receive
13 unemployment compensation benefits through fraud. The penalty
14 is equal to 15 percent of the amount of the overpayment and is
15 to be collected in the same manner as the overpayment but shall
16 not be collected from any future benefits.

17 The bill applies to any overpayment determination or
18 fraudulent overpayment issued on or after July 1, 2013.



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House Study Bill 36 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S BILL)

A BILL FOR

1 An Act relating to certificate of merit affidavits and
2 noneconomic damages in medical malpractice actions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1483XL (4) 85
rh/rj



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1 Section 1. NEW SECTION. 147.140 Expert certificate of merit
2 affidavit — health care providers — requirements.

3 1. For purposes of this section and section 147.141, “*health*
4 *care provider*” means a physician and surgeon, osteopathic
5 physician and surgeon, dentist, podiatric physician,
6 optometrist, pharmacist, chiropractor, physician assistant, or
7 nurse licensed pursuant to this chapter, a hospital licensed
8 pursuant to chapter 135B, or a health care facility licensed
9 pursuant to chapter 135C.

10 2. *a.* In any action for personal injury or wrongful
11 death against any health care provider based upon the alleged
12 negligence of the licensee in the practice of that profession
13 or occupation, or upon the alleged negligence of the hospital
14 or health care facility in patient care, which includes a cause
15 of action for which expert testimony is necessary to establish
16 a prima facie case, the plaintiff shall, within one hundred
17 eighty days of the defendant’s answer, serve upon the defendant
18 an expert’s certificate of merit affidavit for each expert
19 listed pursuant to section 668.11 who will testify with respect
20 to the issues of breach of standard of care or causation.

21 *b.* A certificate of merit affidavit must be signed by the
22 expert. The affidavit must certify the purpose for calling the
23 expert by providing under the oath of the expert all of the
24 following:

25 (1) The expert’s statement of familiarity with the
26 applicable standard of care.

27 (2) The expert’s statement that the standard of care was
28 breached by the health care provider named in the petition.

29 (3) The expert’s statement of the actions that the health
30 care provider failed to take or should have taken to comply
31 with the standard of care.

32 (4) The expert’s statement of the manner by which the breach
33 of the standard of care was the cause of the injury alleged in
34 the petition.

35 *c.* A plaintiff shall serve a separate affidavit on each

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1 defendant named in the petition.

2 *d.* Answers to interrogatories may serve as an expert's
3 certificate of merit affidavit in lieu of a separately executed
4 affidavit if the interrogatories satisfy the requirements of
5 this subsection and are signed by the plaintiff's attorney and
6 by each expert listed in the answers to interrogatories and
7 served upon the defendant within one hundred eighty days of the
8 defendant's answer.

9 3. The expert's certificate of merit affidavit does not
10 preclude additional discovery and supplementation of the
11 expert's opinions in accordance with the rules of civil
12 procedure.

13 4. The parties by agreement or the court for good cause
14 shown and in response to a motion filed prior to the expiration
15 of the time limits specified in subsection 2 may provide
16 for extensions of the time limits specified in subsection
17 2. Good cause shall include the inability to timely obtain
18 a plaintiff's medical records from medical providers when
19 requested prior to filing the petition and not produced.

20 5. If the plaintiff is acting pro se, the plaintiff shall
21 sign the affidavit or answers to interrogatories referred to
22 in this section and shall be bound by those provisions as if
23 represented by an attorney.

24 6. *a.* Failure to comply with subsection 2 shall result,
25 upon motion, in dismissal with prejudice of each cause of
26 action as to which expert testimony is necessary to establish a
27 prima facie case.

28 *b.* A written notice of deficiency may be served upon the
29 plaintiff for failure to comply with subsection 2 because of
30 deficiencies in the affidavit or answers to interrogatories.
31 The notice shall state with particularity each deficiency of
32 the affidavit or answers to interrogatories. The plaintiff
33 shall have twenty days to cure the deficiency. Failure to
34 comply within the twenty days shall result, upon motion, in
35 mandatory dismissal with prejudice of each action as to which

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1 expert testimony is necessary to establish a prima facie case.
2 A party resisting a motion for mandatory dismissal pursuant to
3 this section shall have the right to request a hearing on the
4 motion.

5 Sec. 2. NEW SECTION. 147.141 Limitation on noneconomic
6 damages.

7 1. In any action for personal injury or wrongful death
8 against any health care provider as defined in section 147.140,
9 based upon the alleged negligence of the licensee in the
10 practice of that profession or occupation, or upon the alleged
11 negligence of the hospital or health care facility in patient
12 care, in which liability is admitted or established, an award
13 of noneconomic damages shall not exceed one million dollars.

14 2. For purposes of this section, "noneconomic damages"
15 means nonpecuniary losses that would not have occurred but
16 for the injury or death giving rise to the cause of action,
17 including pain and suffering, inconvenience, physical
18 impairment, mental anguish, loss of capacity for enjoyment of
19 life, and any other nonpecuniary losses.

20 EXPLANATION

21 This bill relates to certificate of merit affidavits and
22 noneconomic damages in medical malpractice actions.

23 CERTIFICATE OF MERIT AFFIDAVIT. The bill provides that
24 in any action for personal injury or wrongful death against
25 any health care provider (defined in the bill) based upon
26 negligence, which includes a cause of action for which expert
27 testimony is necessary to establish a prima facie case, the
28 plaintiff is required, within 180 days of the defendant's
29 answer, to serve the defendant with an expert's certificate
30 of merit affidavit for each expert listed who is expected to
31 testify with respect to the issues of breach of standard of
32 care or causation.

33 The bill provides that each certificate of merit affidavit
34 must be signed by the expert and include the expert's statement
35 of familiarity with the applicable standard of care, the

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1 expert's statement that the standard of care was breached by
2 the health care provider named in the petition, the expert's
3 statement of the actions that the health care provider should
4 have taken or failed to take to have complied with the standard
5 of care, and the expert's statement of the manner by which the
6 breach of the standard of care was the cause of the injury
7 alleged in the petition.

8 The bill provides that a plaintiff shall serve a separate
9 affidavit on each defendant named in the petition and that
10 answers to interrogatories may serve as an expert's certificate
11 of merit affidavit in lieu of a separately executed affidavit
12 if the interrogatories satisfy the requirements previously
13 noted and are signed by the plaintiff's attorney and by each
14 expert listed in the answers to interrogatories and served upon
15 the defendant within 180 days of the defendant's answer.

16 The bill provides that a certificate of merit affidavit
17 does not preclude additional discovery and that the parties by
18 agreement or the court for good cause shown may provide for
19 extensions of the time limits provided in the bill. If the
20 plaintiff is acting pro se, the plaintiff is required to sign
21 the affidavit or answers to interrogatories and shall be bound
22 by those provisions as if represented by an attorney.

23 The bill provides that failure to comply with the
24 requirements of the bill shall result, upon motion, in
25 dismissal with prejudice of each cause of action as to which
26 expert testimony is necessary to establish a prima facie case.
27 A written notice of deficiency may be served upon the plaintiff
28 for failure to comply with the requirements of the bill because
29 of deficiencies in the affidavit or answers to interrogatories.
30 The plaintiff shall have 20 days to cure the deficiency and
31 failure to comply within the 20 days shall result, upon motion,
32 in mandatory dismissal with prejudice of each action as to
33 which expert testimony is necessary to establish a prima facie
34 case. A party resisting a motion for mandatory dismissal under
35 the bill has the right to request a hearing on the motion.

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1 NONECONOMIC DAMAGES. The bill provides that an award of
2 noneconomic damages in any action for personal injury or
3 wrongful death against any health care provider (defined in
4 the bill) based upon the alleged negligence of the licensee
5 in the practice of that profession or occupation, or upon the
6 alleged negligence of the hospital or health care facility in
7 patient care, in which liability is admitted or established,
8 shall not exceed \$1 million. "Noneconomic damages" is defined
9 as nonpecuniary losses that would not have occurred but for the
10 injury or death giving rise to the cause of action, including
11 pain and suffering, inconvenience, physical impairment, mental
12 anguish, loss of capacity for enjoyment of life, and any other
13 nonpecuniary losses.

14 For purposes of the bill, "health care provider" means a
15 physician and surgeon, osteopathic physician and surgeon,
16 dentist, podiatric physician, optometrist, pharmacist,
17 chiropractor, physician assistant, or nurse licensed pursuant
18 to Code chapter 147, a hospital licensed pursuant to Code
19 chapter 135B, or a health care facility licensed pursuant to
20 Code chapter 135C.



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House Study Bill 37 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to the transmission of court records by the
2 clerk of the district court to the clerk of the supreme
3 court in an appeal.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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jm/nh



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1 Section 1. NEW SECTION. 602.8103A Transmission of record
2 on appeal.

3 1. a. The clerk of the district court shall be solely
4 responsible for transmitting the record on appeal to the
5 clerk of the supreme court in civil and criminal proceedings.
6 The clerk of the district court shall only transmit the
7 record to the clerk of the supreme court upon the request
8 of the appellee, appellant, the attorney for the appellee or
9 appellant, or the appellate court.

10 b. The requirements of paragraph "a" shall not be delegated
11 to another party. The appellee, appellant, the attorney for
12 the appellee or appellant, or any agent of the appellee or
13 appellant shall not transmit any part of the appellate record
14 to the clerk of the supreme court.

15 2. For purposes of this section, the "record on appeal"
16 consists of the original documents and exhibits filed in
17 district court, transcripts of the proceedings, and a certified
18 copy of the docket and court calendar entries prepared by
19 the clerk of the district court in the case under appeal.
20 Exhibits of unusual size or bulk are not required to be
21 transmitted by the clerk of the district court unless requested
22 by the appellee, appellant, the attorney for the appellee or
23 appellant, or the appellate court.

24 3. If a request is made pursuant to subsection 1, within
25 seven days of the filing of the final briefs in the appeal, the
26 clerk of the district court shall transmit any of the remaining
27 record to the clerk of the supreme court.

28 Sec. 2. REPEAL. Section 625A.7, Code 2013, is repealed.

29 EXPLANATION

30 This bill relates to the transmission of court records by the
31 clerk of the district court to the clerk of the supreme court
32 in an appeal.

33 The bill specifies that the clerk of the district court shall
34 be solely responsible for transmitting the record on appeal to
35 the clerk of the supreme court. The bill requires the clerk of

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1 the district court to only transmit the record to the clerk of
2 the supreme court upon the request of the appellee, appellant,
3 the attorney for the appellee or appellant, or the appellate
4 court.

5 The bill specifies the record on appeal shall consist of
6 the original documents and exhibits filed in district court,
7 transcripts of the proceedings, and a certified copy of the
8 docket and court calendar entries prepared by the clerk of the
9 district court in the case under appeal.

10 Under the bill, exhibits of unusual size or bulk are not
11 required to be transmitted by the clerk of the district court
12 unless requested by the appellee, appellant, the attorney for
13 the appellee or appellant, or the appellate court.

14 The bill also requires that the clerk of the district court
15 transmit any of the remaining record to the clerk of the
16 supreme court within seven days after the final briefs have
17 been filed in the appeal.



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House Study Bill 38 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
REVENUE BILL)

A BILL FOR

1 An Act updating the Code references to the Internal Revenue
2 Code and decoupling from certain federal bonus depreciation
3 provisions, providing certain taxpayers additional time to
4 file a claim for refund or credit of individual income tax,
5 and including effective date and retroactive applicability
6 provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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mm/sc



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1 DIVISION I
2 INTERNAL REVENUE CODE REFERENCES
3 Section 1. Section 15.335, subsection 7, paragraph b, Code
4 2013, is amended to read as follows:
5 *b.* For purposes of this section, "*Internal Revenue Code*"
6 means the Internal Revenue Code in effect on January 1, ~~2012~~
7 2013, and as amended by the American Taxpayer Relief Act of
8 2012, Pub. L. No. 112-240.
9 Sec. 2. Section 422.3, subsection 5, Code 2013, is amended
10 to read as follows:
11 5. "*Internal Revenue Code*" means the Internal Revenue Code
12 of 1954, prior to the date of its redesignation as the Internal
13 Revenue Code of 1986 by the Tax Reform Act of 1986, or means
14 the Internal Revenue Code of 1986 as amended to and including
15 January 1, ~~2012~~ 2013, and as amended by the American Taxpayer
16 Relief Act of 2012, Pub. L. No. 112-240.
17 Sec. 3. Section 422.9, subsection 2, paragraph i, Code 2013,
18 is amended to read as follows:
19 *i.* The deduction for state sales and use taxes is allowable
20 only if the taxpayer elected to deduct the state sales and use
21 taxes in lieu of state income taxes under section 164 of the
22 Internal Revenue Code. A deduction for state sales and use
23 taxes is not allowed if the taxpayer has taken the deduction
24 for state income taxes or claimed the standard deduction under
25 section 63 of the Internal Revenue Code. This paragraph
26 applies to taxable years beginning after December 31, 2003, and
27 before January 1, 2008, and to taxable years beginning after
28 December 31, 2009, and before January 1, ~~2012~~ 2014.
29 Sec. 4. Section 422.10, subsection 3, paragraph b, Code
30 2013, is amended to read as follows:
31 *b.* For purposes of this section, "*Internal Revenue Code*"
32 means the Internal Revenue Code in effect on January 1, ~~2012~~
33 2013, and as amended by the American Taxpayer Relief Act of
34 2012, Pub. L. No. 112-240.
35 Sec. 5. Section 422.32, subsection 1, paragraph g, Code

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1 2013, is amended to read as follows:

2 *g. "Internal Revenue Code"* means the Internal Revenue Code
3 of 1954, prior to the date of its redesignation as the Internal
4 Revenue Code of 1986 by the Tax Reform Act of 1986, or means
5 the Internal Revenue Code of 1986 as amended to and including
6 January 1, ~~2012~~ 2013, and as amended by the American Taxpayer
7 Relief Act of 2012, Pub. L. No. 112-240.

8 Sec. 6. Section 422.33, subsection 5, paragraph d,
9 subparagraph (2), Code 2013, is amended to read as follows:

10 (2) For purposes of this subsection, *"Internal Revenue Code"*
11 means the Internal Revenue Code in effect on January 1, ~~2012~~
12 2013, and as amended by the American Taxpayer Relief Act of
13 2012, Pub. L. No. 112-240.

14 Sec. 7. EFFECTIVE UPON ENACTMENT. This division of this
15 Act, being deemed of immediate importance, takes effect upon
16 enactment.

17 Sec. 8. RETROACTIVE APPLICABILITY. This division of this
18 Act applies retroactively to January 1, 2012, for tax years
19 beginning on or after that date.

20 DIVISION II

21 BONUS DEPRECIATION

22 Sec. 9. Section 422.7, subsection 39A, unnumbered paragraph
23 1, Code 2013, is amended to read as follows:

24 The additional first-year depreciation allowance authorized
25 in section 168(k) of the Internal Revenue Code, as enacted by
26 Pub. L. No. 110-185, § 103, Pub. L. No. 111-5, § 1201, Pub. L.
27 No. 111-240, § 2022, ~~and~~ Pub. L. No. 111-312, § 401, and Pub. L.
28 No. 112-240, § 331, does not apply in computing net income for
29 state tax purposes. If the taxpayer has taken the additional
30 first-year depreciation allowance for purposes of computing
31 federal adjusted gross income, then the taxpayer shall make the
32 following adjustments to federal adjusted gross income when
33 computing net income for state tax purposes:

34 Sec. 10. Section 422.35, subsection 19A, unnumbered
35 paragraph 1, Code 2013, is amended to read as follows:

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1 The additional first-year depreciation allowance authorized
2 in section 168(k) of the Internal Revenue Code, as enacted by
3 Pub. L. No. 110-185, § 103, Pub. L. No. 111-5, § 1201, Pub. L.
4 No. 111-240, § 2022, ~~and~~ Pub. L. No. 111-312, § 401, and Pub. L.
5 No. 112-240, § 331, does not apply in computing net income for
6 state tax purposes. If the taxpayer has taken the additional
7 first-year depreciation allowance for purposes of computing
8 federal taxable income, then the taxpayer shall make the
9 following adjustments to federal taxable income when computing
10 net income for state tax purposes:

11 Sec. 11. EFFECTIVE UPON ENACTMENT. This division of this
12 Act, being deemed of immediate importance, takes effect upon
13 enactment.

14 Sec. 12. RETROACTIVE APPLICABILITY. This division of this
15 Act applies retroactively to January 1, 2013, for tax years
16 ending on or after that date.

17 DIVISION III

18 FILING OF CLAIMS

19 Sec. 13. Section 422.73, Code 2013, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 1A. Notwithstanding subsection 1, a claim
22 for refund or credit of the individual income tax paid which
23 resulted from a reduction in a person's federal adjusted gross
24 income due to section 1106 of the FAA Modernization and Reform
25 Act of 2012, Pub. L. No. 112-95, shall be considered timely if
26 the claim is filed with the department on or before June 30,
27 2013.

28 Sec. 14. EFFECTIVE UPON ENACTMENT. This division of this
29 Act, being deemed of immediate importance, takes effect upon
30 enactment.

31 Sec. 15. RETROACTIVE APPLICABILITY. This division of this
32 Act applies retroactively to January 1, 2012, for refund or
33 credit claims filed on or after that date.

34 EXPLANATION

35 This bill updates the Iowa Code references to the Internal

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1 Revenue Code to make federal income tax revisions enacted by
2 Congress in 2012, and by the American Taxpayer Relief Act of
3 2012, Pub. L. No. 112-240, applicable for Iowa income tax
4 purposes, decouples with certain bonus depreciation provisions,
5 and provides certain taxpayers additional time to file a claim
6 for refund or credit of individual income tax paid.

7 DIVISION I — INTERNAL REVENUE CODE REFERENCES. The
8 division amends Code sections 422.3 and 422.32, general
9 definition sections in the chapter of the Code that governs
10 corporate and individual income tax and the franchise tax
11 on financial institutions, to update the references to the
12 Internal Revenue Code.

13 The division amends Code sections 15.335, 422.10, and 422.33
14 to update the references to the Internal Revenue Code for the
15 state research activities credit for individuals, corporations,
16 and corporations in economic development areas to include the
17 federal changes to the research activities credit and the
18 alternative simplified research activities credit.

19 Code section 422.9 provides individuals a deduction from net
20 income for state sales and use taxes if the individual chose
21 to deduct sales and use tax in lieu of state income taxes or
22 the standard deduction for federal income tax purposes. This
23 deduction was set to expire under both federal and Iowa law for
24 tax years beginning on or after January 1, 2012. The American
25 Taxpayer Relief Act of 2012 extended the federal deduction for
26 the 2012 and 2013 tax years. This division extends the Iowa
27 deduction for the 2012 and 2013 tax years.

28 Division I takes effect upon enactment and applies
29 retroactively to January 1, 2012, for tax years beginning on
30 or after that date.

31 DIVISION II — BONUS DEPRECIATION. The division decouples,
32 for Iowa income tax purposes, from the federal additional
33 first-year depreciation allowance in section 168(k) of the
34 Internal Revenue Code which was extended by the American
35 Taxpayer Relief Act of 2012.



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1 Division II takes effect upon enactment and applies
2 retroactively to January 1, 2013, for tax years ending on or
3 after that date.

4 DIVISION III — FILING OF CLAIMS. The division amends
5 Code section 422.73, relating to the period of limitation to
6 claim a tax refund or credit, to provide additional time for
7 taxpayers affected by the FAA Modernization and Reform Act of
8 2012, Pub. L. No. 112-95, to request a refund or credit of Iowa
9 individual income tax paid. The federal law allows a qualified
10 airline employee who received a settlement payment from an
11 airline company in bankruptcy to roll over that amount into a
12 traditional individual retirement account (IRA) and exclude
13 that amount from adjusted gross income in the year in which it
14 was received. The federal law allowed additional time, until
15 April 15, 2013, for a refund to be requested for federal income
16 tax purposes provided the rollover occurred within 180 days of
17 February 14, 2012. Iowa taxpayers whose federal adjusted gross
18 income was reduced due to this federal law have until June 30,
19 2013, to request a refund or credit for Iowa individual income
20 tax paid.

21 Division III takes effect upon enactment and applies
22 retroactively to January 1, 2012, for refund or credit claims
23 filed on or after that date.



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House Study Bill 39 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED CITIZENS'
AIDE/OMBUDSMAN BILL)

A BILL FOR

1 An Act relating to the title of the office of citizens' aide.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 2.12, unnumbered paragraph 4, Code 2013,
2 is amended to read as follows:
3 There is appropriated out of any funds in the state treasury
4 not otherwise appropriated such sums as may be necessary for
5 the fiscal year budgets of the legislative services agency and
6 the ~~citizens' aide~~ ombudsman office for salaries, support,
7 maintenance, and miscellaneous purposes to carry out their
8 statutory responsibilities. The legislative services agency
9 and the ~~citizens' aide~~ ombudsman office shall submit their
10 proposed budgets to the legislative council not later than
11 September 1 of each year. The legislative council shall review
12 and approve the proposed budgets not later than December 1 of
13 each year. The budget approved by the legislative council for
14 each of its statutory legislative agencies shall be transmitted
15 by the legislative council to the department of management on
16 or before December 1 of each year for the fiscal year beginning
17 July 1 of the following year. The department of management
18 shall submit the approved budgets received from the legislative
19 council to the governor for inclusion in the governor's
20 proposed budget for the succeeding fiscal year. The approved
21 budgets shall also be submitted to the chairpersons of the
22 committees on appropriations. The committees on appropriations
23 may allocate from the funds appropriated by this section
24 the funds contained in the approved budgets, or such other
25 amounts as specified, pursuant to a concurrent resolution to be
26 approved by both houses of the general assembly. The director
27 of the department of administrative services shall issue
28 warrants for salaries, support, maintenance, and miscellaneous
29 purposes upon requisition by the administrative head of each
30 statutory legislative agency. If the legislative council
31 elects to change the approved budget for a legislative agency
32 prior to July 1, the legislative council shall transmit the
33 amount of the budget revision to the department of management
34 prior to July 1 of the fiscal year, however, if the general
35 assembly approved the budget it cannot be changed except

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1 pursuant to a concurrent resolution approved by the general
2 assembly.

3 Sec. 2. Section 2.42, subsection 14, Code 2013, is amended
4 to read as follows:

5 14. To hear and act upon appeals of aggrieved employees of
6 the legislative services agency and the office of the ~~citizens'~~
7 ~~aide~~ ombudsman pursuant to rules of procedure established by
8 the council.

9 Sec. 3. Section 2C.2, Code 2013, is amended to read as
10 follows:

11 **2C.2 Office established.**

12 The office of ~~citizens'~~ ~~aide~~ ombudsman is established.

13 Sec. 4. Section 2C.3, Code 2013, is amended to read as
14 follows:

15 **2C.3 Appointment — vacancy.**

16 1. The ~~citizens'~~ ~~aide~~ ombudsman shall be appointed by the
17 legislative council with the approval and confirmation of a
18 constitutional majority of the senate and with the approval
19 and confirmation of a constitutional majority of the house of
20 representatives. The legislative council shall fill a vacancy
21 in this office in the same manner as the original appointment.
22 If the appointment or vacancy occurs while the general assembly
23 is not in session, such appointment shall be reported to the
24 senate and the house of representatives within thirty days of
25 their convening at their next regular session for approval and
26 confirmation.

27 2. The ~~citizens'~~ ~~aide~~ ombudsman shall employ and supervise
28 all employees under the ~~citizens'~~ ~~aide's~~ ombudsman's direction
29 in such positions and at such salaries as shall be authorized
30 by the legislative council. The legislative council shall hear
31 and act upon appeals of aggrieved employees of the office of
32 the ~~citizens'~~ ~~aide~~ ombudsman.

33 Sec. 5. Section 2C.4, Code 2013, is amended to read as
34 follows:

35 **2C.4 Citizen of United States and resident of Iowa.**

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1 The ~~citizens'~~aide ombudsman shall be a citizen of the
2 United States and a resident of the state of Iowa, and shall
3 be qualified to analyze problems of law, administration, and
4 public policy.

5 Sec. 6. Section 2C.5, Code 2013, is amended to read as
6 follows:

7 **2C.5 Term — removal.**

8 The ~~citizens'~~aide ombudsman shall hold office for four
9 years from the first day in July of the year of approval by the
10 senate and the house of representatives, and until a successor
11 is appointed by the legislative council, unless the ~~citizens'~~
12 aide ombudsman can no longer perform the official duties, or
13 is removed from office. The ~~citizens'~~aide ombudsman may at
14 any time be removed from office by constitutional majority vote
15 of the two houses of the general assembly or as provided by
16 chapter 66. If a vacancy occurs in the office of ~~citizens'~~
17 aide ombudsman, the deputy ~~citizens'~~aide ombudsman shall act
18 as ~~citizens'~~aide ombudsman until the vacancy is filled by the
19 legislative council.

20 Sec. 7. Section 2C.6, Code 2013, is amended to read as
21 follows:

22 **2C.6 Deputy — assistant for penal agencies.**

23 1. The ~~citizens'~~aide ombudsman shall designate one of the
24 members of the staff as the deputy ~~citizens'~~aide ombudsman,
25 with authority to act as ~~citizens'~~aide ombudsman when the
26 ~~citizens'~~aide ombudsman is absent from the state or becomes
27 disabled. The ~~citizens'~~aide ombudsman may delegate to members
28 of the staff any of the ~~citizens'~~aide's authority or duties of
29 the office except the duty of formally making recommendations
30 to agencies or reports to the governor or the general assembly.

31 2. The ~~citizens'~~aide ombudsman shall appoint an assistant
32 who shall be primarily responsible for investigating complaints
33 relating to penal or correctional agencies.

34 Sec. 8. Section 2C.7, unnumbered paragraph 1, Code 2013, is
35 amended to read as follows:

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1 Neither the ~~citizens'~~ombudsman nor any member of the
2 staff shall:

3 Sec. 9. Section 2C.8, Code 2013, is amended to read as
4 follows:

5 **2C.8 Closed files.**

6 The ~~citizens'~~ombudsman may maintain secrecy in respect
7 to all matters including the identities of the complainants or
8 witnesses coming before the ~~citizens'~~ombudsman, except
9 that the general assembly, any standing committee of the
10 general assembly or the governor may require disclosure of any
11 matter and shall have complete access to the records and files
12 of the ~~citizens'~~ombudsman. The ~~citizens'~~ombudsman
13 may conduct private hearings.

14 Sec. 10. Section 2C.9, Code 2013, is amended to read as
15 follows:

16 **2C.9 Powers.**

17 The ~~citizens'~~ombudsman may:

18 1. Investigate, on complaint or on the ~~citizens'~~ombudsman's
19 ombudsman's own motion, any administrative action of any
20 agency, without regard to the finality of the administrative
21 action, except that the ~~citizens'~~ombudsman shall not
22 investigate the complaint of an employee of an agency in regard
23 to that employee's employment relationship with the agency
24 except as otherwise provided by this chapter. A communication
25 or receipt of information made pursuant to the powers
26 prescribed in this chapter shall not be considered an ex parte
27 communication as described in the provisions of section 17A.17.

28 2. Investigate, on complaint or on the ~~citizens'~~ombudsman's
29 ombudsman's own motion, any administrative action of any person
30 providing child welfare or juvenile justice services under
31 contract with an agency that is subject to investigation by the
32 ~~citizens'~~ombudsman. The person shall be considered to
33 be an agency for purposes of the ~~citizens'~~ombudsman's
34 investigation.

35 3. Prescribe the methods by which complaints are to be made,

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1 received, and acted upon; determine the scope and manner of
2 investigations to be made; and, subject to the requirements of
3 this chapter, determine the form, frequency, and distribution
4 of the conclusions and recommendations of the ~~citizens' aide~~
5 ombudsman.

6 4. Request and receive from each agency assistance and
7 information as necessary in the performance of the duties of
8 the office. Notwithstanding section 22.7, pursuant to an
9 investigation the ~~citizens' aide~~ ombudsman may examine any and
10 all records and documents of any agency unless its custodian
11 demonstrates that the examination would violate federal
12 law or result in the denial of federal funds to the agency.
13 Confidential documents provided to the ~~citizens' aide~~ ombudsman
14 by other agencies shall continue to maintain their confidential
15 status. The ~~citizens' aide~~ ombudsman is subject to the same
16 policies and penalties regarding the confidentiality of the
17 document as an employee of the agency. The ~~citizens' aide~~
18 ombudsman may enter and inspect premises within any agency's
19 control and may observe proceedings and attend hearings, with
20 the consent of the interested party, including those held under
21 a provision of confidentiality, conducted by any agency unless
22 the agency demonstrates that the attendance or observation
23 would violate federal law or result in the denial of federal
24 funds to that agency. This subsection does not permit the
25 examination of records or access to hearings and proceedings
26 which are the work product of an attorney under section 22.7,
27 subsection 4, or which are privileged communications under
28 section 622.10.

29 5. Issue a subpoena to compel any person to appear, give
30 sworn testimony, or produce documentary or other evidence
31 relevant to a matter under inquiry. The ~~citizens' aide~~
32 ombudsman, deputies, and assistants of the ~~citizens' aide~~
33 ombudsman may administer oaths to persons giving testimony
34 before them. If a witness either fails or refuses to obey
35 a subpoena issued by the ~~citizens' aide~~ ombudsman, the

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1 ~~citizens' aide~~ ombudsman may petition the district court having
2 jurisdiction for an order directing obedience to the subpoena.
3 If the court finds that the subpoena should be obeyed, it shall
4 enter an order requiring obedience to the subpoena, and refusal
5 to obey the court order is subject to punishment for contempt.

6 6. Establish rules relating to the operation, organization,
7 and procedure of the office of the ~~citizens' aide~~ ombudsman.
8 The rules are exempt from chapter 17A and shall be published in
9 the Iowa administrative code.

10 Sec. 11. Section 2C.10, Code 2013, is amended to read as
11 follows:

12 **2C.10 No charge for services.**

13 ~~No~~ A monetary charge or other charge shall not be levied upon
14 any person as a prerequisite to presentation of a complaint to
15 the ~~citizens' aide~~ ombudsman.

16 Sec. 12. Section 2C.11, Code 2013, is amended to read as
17 follows:

18 **2C.11 Subjects for investigations.**

19 1. An appropriate subject for investigation by the office of
20 the ~~citizens' aide~~ ombudsman is an administrative action that
21 might be:

22 a. Contrary to law or regulation.

23 b. Unreasonable, unfair, oppressive, or inconsistent with
24 the general course of an agency's functioning, even though in
25 accordance with law.

26 c. Based on a mistake of law or arbitrary in ascertainties
27 of fact.

28 d. Based on improper motivation or irrelevant consideration.

29 e. Unaccompanied by an adequate statement of reasons.

30 2. The ~~citizens' aide~~ ombudsman may also be concerned with
31 strengthening procedures and practices which lessen the risk
32 that objectionable administrative actions will occur.

33 Sec. 13. Section 2C.11A, Code 2013, is amended to read as
34 follows:

35 **2C.11A Subjects for investigations — disclosures of**

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1 information.

2 The office of ~~citizens'~~ombudsman shall investigate
3 a complaint filed by an employee who is not a merit system
4 employee or an employee covered by a collective bargaining
5 agreement and who alleges that adverse employment action has
6 been taken against the employee in violation of section 70A.28,
7 subsection 2. A complaint filed pursuant to this section shall
8 be made within thirty calendar days following the effective
9 date of the adverse employment action. The ~~citizens'~~ombudsman
10 shall investigate the matter and shall issue findings
11 relative to the complaint in an expeditious manner.

12 Sec. 14. Section 2C.12, Code 2013, is amended to read as
13 follows:

14 **2C.12 Complaints investigated.**

15 1. The ~~citizens'~~ombudsman may receive a complaint from
16 any source concerning an administrative action. The ~~citizens'~~
17 ombudsman shall conduct a suitable investigation into the
18 administrative actions complained of unless the ~~citizens'~~ombudsman
19 finds substantiating facts that:

20 a. The complainant has available another remedy or channel
21 of complaint which the complainant could reasonably be expected
22 to use.

23 b. The grievance pertains to a matter outside the ~~citizens'~~
24 ombudsman's power.

25 c. The complainant has no substantive or procedural interest
26 which is directly affected by the matter complained about.

27 d. The complaint is trivial, frivolous, vexatious, or not
28 made in good faith.

29 e. Other complaints are more worthy of attention.

30 f. The ~~citizens'~~ombudsman's resources are insufficient
31 for adequate investigation.

32 g. The complaint has been delayed too long to justify
33 present examination of its merit.

34 2. The ~~citizens'~~ombudsman may decline to investigate
35 a complaint, but shall not be prohibited from inquiring into

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1 the matter complained about or into related problems at some
2 future time.

3 Sec. 15. Section 2C.13, Code 2013, is amended to read as
4 follows:

5 **2C.13 No investigation — notice to complainant.**

6 If the ~~citizens'~~aide ombudsman decides not to investigate,
7 the complainant shall be informed of the reasons for
8 the decision. If the ~~citizens'~~aide ombudsman decides
9 to investigate, the complainant and the agency shall be
10 notified of the decision. After completing consideration
11 of a complaint, whether or not it has been investigated,
12 the ~~citizens'~~aide ombudsman shall without delay inform the
13 complainant of the fact, and if appropriate, shall inform the
14 agency involved. The ~~citizens'~~aide ombudsman shall on request
15 of the complainant, and as appropriate, report the status of
16 the investigation to the complainant.

17 Sec. 16. Section 2C.14, Code 2013, is amended to read as
18 follows:

19 **2C.14 Institutionalized complainants.**

20 A letter to the ~~citizens'~~aide ombudsman from a person in
21 a correctional institution, a hospital, or other institution
22 under the control of an agency shall be immediately forwarded,
23 unopened, to the ~~citizens'~~aide ombudsman by the institution
24 where the writer of the letter is a resident. A letter from the
25 ~~citizens'~~aide ombudsman to such a person shall be immediately
26 delivered, unopened, to the person.

27 Sec. 17. Section 2C.15, Code 2013, is amended to read as
28 follows:

29 **2C.15 Reports critical of agency or officer.**

30 Before announcing a conclusion or recommendation that
31 criticizes an agency or any officer or employee, the ~~citizens'~~
32 aide ombudsman shall consult with that agency, officer, or
33 employee, and shall attach to every report sent or made under
34 the provisions of this chapter a copy of any unedited comments
35 made by or on behalf of the officer, employee, or agency.

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1 Sec. 18. Section 2C.16, Code 2013, is amended to read as
2 follows:

3 **2C.16 Recommendations to agency.**

4 1. The ~~citizens' aide~~ ombudsman shall state recommendations
5 to an agency, if, after having considered a complaint and
6 whatever material the ~~citizens' aide~~ ombudsman deems pertinent,
7 the ~~citizens' aide~~ ombudsman finds substantiating facts for any
8 of the following:

9 a. A matter should be further considered by the agency.

10 b. An administrative action should be modified or canceled.

11 c. A rule on which an administrative action is based should
12 be altered.

13 d. Reasons should be given for an administrative action.

14 e. Any other action should be taken by the agency.

15 2. If the ~~citizens' aide~~ ombudsman requests, the agency
16 shall, within twenty working days notify the ~~citizens' aide~~
17 ombudsman of any action taken on the recommendations or the
18 reasons for not complying with them.

19 3. If the ~~citizens' aide~~ ombudsman believes that an
20 administrative action has occurred because of laws of which
21 results are unfair or otherwise objectionable, the ~~citizens'~~
22 ~~aide~~ ombudsman shall notify the general assembly concerning
23 desirable statutory change.

24 Sec. 19. Section 2C.17, Code 2013, is amended to read as
25 follows:

26 **2C.17 Publication of conclusions.**

27 1. The ~~citizens' aide~~ ombudsman may publish the
28 conclusions, recommendations, and suggestions and transmit
29 them to the governor or the general assembly or any of its
30 committees. When publishing an opinion adverse to an agency or
31 official the ~~citizens' aide~~ ombudsman shall, unless excused by
32 the agency or official affected, include with the opinion any
33 unedited reply made by the agency.

34 2. Any conclusions, recommendations, and suggestions so
35 published may at the same time be made available to the news

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1 media or others who may be concerned.

2 Sec. 20. Section 2C.18, Code 2013, is amended to read as
3 follows:

4 **2C.18 Report to general assembly.**

5 The ~~citizens'~~aide ombudsman shall by April 1 of each year
6 submit an economically designed and reproduced report to the
7 general assembly and to the governor concerning the exercise
8 of the ~~citizens'~~aide ombudsman functions during the preceding
9 calendar year. In discussing matters with which the ~~citizens'~~
10 aide ombudsman has been concerned, the ~~citizens'~~aide ombudsman
11 shall not identify specific persons if to do so would cause
12 needless hardship. If the annual report criticizes a named
13 agency or official, it shall also include unedited replies made
14 by the agency or official to the criticism, unless excused by
15 the agency or official affected.

16 Sec. 21. Section 2C.19, Code 2013, is amended to read as
17 follows:

18 **2C.19 Disciplinary action recommended.**

19 If the ~~citizens'~~aide ombudsman believes that any public
20 official, employee or other person has acted in a manner
21 warranting criminal or disciplinary proceedings, the ~~citizens'~~
22 aide ombudsman shall refer the matter to the appropriate
23 authorities.

24 Sec. 22. Section 2C.20, Code 2013, is amended to read as
25 follows:

26 **2C.20 Immunities.**

27 No civil action, except removal from office as provided
28 in chapter 66, or proceeding shall be commenced against the
29 ~~citizens'~~aide ombudsman or any member of the staff for any
30 act or omission performed pursuant to the provisions of this
31 chapter unless the act or omission is actuated by malice or
32 is grossly negligent, nor shall the ~~citizens'~~aide ombudsman
33 or any member of the staff be compelled to testify in any
34 court with respect to any matter involving the exercise of the
35 ~~citizens'~~aide's ombudsman's official duties except as may be

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1 necessary to enforce the provisions of this chapter.

2 Sec. 23. Section 2C.21, Code 2013, is amended to read as
3 follows:

4 **2C.21 Witnesses.**

5 A person required by the ~~citizens'~~ombudsman to provide
6 information shall be paid the same fees and travel allowances
7 as are extended to witnesses whose attendance has been required
8 in the district courts of this state. Officers and employees
9 of an agency shall not be entitled to such fees and allowances.
10 A person who, with or without service of compulsory process,
11 provides oral or documentary information requested by the
12 ~~citizens'~~ombudsman shall be accorded the same privileges
13 and immunities as are extended to witnesses in the courts of
14 this state, and shall also be entitled to be accompanied and
15 advised by counsel while being questioned.

16 Sec. 24. Section 2C.22, Code 2013, is amended to read as
17 follows:

18 **2C.22 Penalties.**

19 A person who willfully obstructs or hinders the lawful
20 actions of the ~~citizens'~~ombudsman or the ~~citizens'~~ombudsman's
21 ombudsman's staff, or who willfully misleads or attempts to
22 mislead the ~~citizens'~~ombudsman in the ~~citizens'~~ombudsman's
23 ombudsman's inquiries, shall be guilty of a simple misdemeanor.

24 Sec. 25. Section 2C.23, Code 2013, is amended to read as
25 follows:

26 **2C.23 Citation.**

27 This chapter shall be known and may be cited as the "~~Iowa~~
28 ~~Citizens' Aide Ombudsman Act~~".

29 Sec. 26. Section 8F.3, subsection 1, paragraph d, Code 2013,
30 is amended to read as follows:

31 *d.* Information regarding any policies adopted by the
32 governing body of the recipient entity that prohibit taking
33 adverse employment action against employees of the recipient
34 entity who disclose information about a service contract to
35 the oversight agency, the auditor of state, the office of the

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1 attorney general, or the office of ~~citizens'~~ aide ombudsman and
2 that state whether those policies are substantially similar
3 to the protection provided to state employees under section
4 70A.28. The information provided shall state whether employees
5 of the recipient entity are informed on a regular basis of
6 their rights to disclose information to the oversight agency,
7 the office of ~~citizens'~~ aide ombudsman, the auditor of state,
8 or the office of the attorney general and the telephone numbers
9 of those organizations.

10 Sec. 27. Section 23A.4, Code 2013, is amended to read as
11 follows:

12 **23A.4 Relief for aggrieved persons.**

13 1. Any aggrieved person may, after pursuing remedies
14 offered by chapter 17A, seek injunctive relief for violations
15 of this chapter by filing an action in the district court for
16 the county in which the aggrieved business is located.

17 2. A state agency or political subdivision found to be in
18 violation of this chapter shall be assessed and shall pay to
19 the aggrieved person fees and other expenses, as defined in
20 section 625.28.

21 3. Chapter 17A and this section are the exclusive remedy
22 for violations of this chapter. However, the office of the
23 ~~citizens'~~ aide ombudsman may review violations of this chapter
24 and make recommendations as provided in chapter 2C.

25 Sec. 28. Section 70A.28, subsections 2, 6, and 8, Code 2013,
26 are amended to read as follows:

27 2. A person shall not discharge an employee from or take
28 or fail to take action regarding an employee's appointment or
29 proposed appointment to, promotion or proposed promotion to,
30 or any advantage in, a position in a state employment system
31 administered by, or subject to approval of, a state agency as a
32 reprisal for a failure by that employee to inform the person
33 that the employee made a disclosure of information permitted
34 by this section, or for a disclosure of any information by
35 that employee to a member or employee of the general assembly,

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1 a disclosure of information to the office of ~~citizens' aide~~
2 ombudsman, or a disclosure of information to any other public
3 official or law enforcement agency if the employee reasonably
4 believes the information evidences a violation of law or rule,
5 mismanagement, a gross abuse of funds, an abuse of authority,
6 or a substantial and specific danger to public health or
7 safety. However, an employee may be required to inform the
8 person that the employee made a disclosure of information
9 permitted by this section if the employee represented that
10 the disclosure was the official position of the employee's
11 immediate supervisor or employer.

12 6. Subsection 2 may also be enforced by an employee through
13 an administrative action pursuant to the requirements of this
14 subsection if the employee is not a merit system employee or
15 an employee covered by a collective bargaining agreement. An
16 employee eligible to pursue an administrative action pursuant
17 to this subsection who is discharged, suspended, demoted,
18 or otherwise receives a reduction in pay and who believes
19 the adverse employment action was taken as a result of the
20 employee's disclosure of information that was authorized
21 pursuant to subsection 2, may file an appeal of the adverse
22 employment action with the public employment relations
23 board within thirty calendar days following the later of the
24 effective date of the action or the date a finding is issued
25 to the employee by the office of the ~~citizens' aide~~ ombudsman
26 pursuant to section 2C.11A. The findings issued by the
27 ~~citizens' aide~~ ombudsman may be introduced as evidence before
28 the public employment relations board. The employee has the
29 right to a hearing closed to the public, but may request a
30 public hearing. The hearing shall otherwise be conducted in
31 accordance with the rules of the public employment relations
32 board and the Iowa administrative procedure Act, chapter 17A.
33 If the public employment relations board finds that the action
34 taken in regard to the employee was in violation of subsection
35 2, the employee may be reinstated without loss of pay or

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1 benefits for the elapsed period, or the public employment
2 relations board may provide other appropriate remedies.
3 Decisions by the public employment relations board constitute
4 final agency action.

5 8. The director of the department of administrative
6 services or, for employees of the general assembly or of the
7 state board of regents, the legislative council or the state
8 board of regents, respectively, shall provide procedures for
9 notifying new state employees of the provisions of this section
10 and shall periodically conduct promotional campaigns to provide
11 similar information to state employees. The information shall
12 include the toll-free telephone number of the ~~citizens' aide~~
13 ombudsman.

14 Sec. 29. Section 217.3A, subsection 3, paragraph a,
15 subparagraph (1), Code 2013, is amended to read as follows:

16 (1) Members of the advisory committee shall include at least
17 one district judge and representatives of custodial parent
18 groups, noncustodial parent groups, the general assembly,
19 the office of ~~citizens' aide~~ ombudsman, the Iowa state bar
20 association, the Iowa county attorneys association, and
21 other constituencies which have an interest in child support
22 enforcement issues, appointed by the respective entity.

23 Sec. 30. Section 236.16, subsection 1, paragraph c, Code
24 2013, is amended to read as follows:

25 c. Designate and award moneys for publicizing and staffing
26 a statewide, toll-free telephone hotline for use by victims
27 of domestic abuse. The department may award a grant to a
28 public agency or a private, nonprofit organization for the
29 purpose of operating the hotline. The operation of the
30 hotline shall include informing victims of their rights and
31 of various community services that are available, referring
32 victims to service providers, receiving complaints concerning
33 misconduct by peace officers and encouraging victims to refer
34 such complaints to the office of ~~citizens' aide~~ ombudsman,
35 providing counseling services to victims over the telephone,

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1 and providing domestic abuse victim advocacy.

2 EXPLANATION

3 This bill changes the title of the office of citizens' aide
4 to the office of ombudsman. The office is established in Code
5 chapter 2C.



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House Study Bill 40 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC DEFENSE BILL)

A BILL FOR

1 An Act establishing the department of homeland security and
2 emergency management.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 7E.5, subsection 1, paragraph p, Code
2 2013, is amended to read as follows:

3 *p.* The department of public defense, created in section
4 29.1, which has primary responsibility for state military
5 forces ~~and emergency management~~.

6 Sec. 2. Section 7E.5, subsection 1, Code 2013, is amended by
7 adding the following new paragraph:

8 NEW PARAGRAPH. *w.* The department of homeland security
9 and emergency management, created in section 29C.5, which has
10 primary responsibility for the administration of emergency
11 planning matters, including emergency resource planning in
12 this state, homeland security activities, and coordination of
13 available services and resources in the event of a disaster to
14 include those services and resources of the federal government
15 and private entities.

16 Sec. 3. Section 8A.202, subsection 5, paragraph e, Code
17 2013, is amended to read as follows:

18 *e.* (1) ~~The department of public defense, including both~~
19 ~~the military division and the homeland security and emergency~~
20 ~~management division,~~ shall not be required to obtain any
21 information technology services pursuant to this subchapter
22 for the department of public defense ~~or its divisions~~ that is
23 provided by the department pursuant to this chapter without the
24 consent of the adjutant general.

25 (2) The department of homeland security and emergency
26 management shall not be required to obtain any information
27 technology services pursuant to this subchapter for the
28 department of homeland security and emergency management that
29 is provided by the department pursuant to this chapter without
30 the consent of the director of the department of homeland
31 security and emergency management.

32 Sec. 4. Section 8D.2, subsection 5, paragraph b, Code 2013,
33 is amended to read as follows:

34 *b.* For the purposes of this chapter, "*public agency*" also
35 includes any homeland security or defense facility or disaster

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1 response agency established by the ~~administrator~~ director of
2 the department of homeland security and emergency management
3 ~~division of the department of public defense~~ or the governor
4 or any facility connected with a security or defense system or
5 disaster response as required by the ~~administrator~~ director of
6 the department of homeland security and emergency management
7 ~~division of the department of public defense~~ or the governor.

8 Sec. 5. Section 8D.9, subsection 3, Code 2013, is amended
9 to read as follows:

10 3. A facility that is considered a public agency pursuant
11 to section 8D.2, subsection 5, paragraph "b", shall be
12 authorized to access the Iowa communications network strictly
13 for homeland security communication purposes and disaster
14 communication purposes. Any utilization of the network that
15 is not related to communications concerning homeland security
16 or a disaster, as defined in section 29C.2, is expressly
17 prohibited. Access under this subsection shall be available
18 only if a state of disaster emergency is proclaimed by the
19 governor pursuant to section 29C.6 or a homeland security
20 or disaster event occurs requiring connection of disparate
21 communications systems between public agencies to provide
22 for a multiagency or multijurisdictional response. Access
23 shall continue only for the period of time the homeland
24 security or disaster event exists. For purposes of this
25 subsection, disaster communication purposes includes training
26 and exercising for a disaster if public notice of the training
27 and exercising session is posted on the ~~website~~ internet site
28 of the department of homeland security and emergency management
29 ~~division of the department of public defense~~. A scheduled and
30 noticed training and exercising session shall not exceed five
31 days. Interpretation and application of the provisions of this
32 subsection shall be strictly construed.

33 Sec. 6. Section 16.191, subsection 2, paragraph e, Code
34 2013, is amended to read as follows:

35 e. The ~~administrator~~ director of the department of homeland

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1 security and emergency management ~~division of the department of~~
2 ~~public defense~~ or the ~~administrator's~~ director's designee.

3 Sec. 7. Section 22.7, subsection 45, Code 2013, is amended
4 to read as follows:

5 45. The critical asset protection plan or any part of the
6 plan prepared pursuant to section 29C.8 and any information
7 held by the department of homeland security and emergency
8 management ~~division~~ that was supplied to the ~~division~~
9 department by a public or private agency or organization and
10 used in the development of the critical asset protection plan
11 to include, but not be limited to, surveys, lists, maps, or
12 photographs. However, the ~~administrator~~ director shall make
13 the list of assets available for examination by any person.
14 A person wishing to examine the list of assets shall make
15 a written request to the ~~administrator~~ director on a form
16 approved by the ~~administrator~~ director. The list of assets may
17 be viewed at the ~~division's~~ department's offices during normal
18 working hours. The list of assets shall not be copied in any
19 manner. Communications and asset information not required by
20 law, rule, or procedure that are provided to the ~~administrator~~
21 director by persons outside of government and for which the
22 ~~administrator~~ director has signed a nondisclosure agreement are
23 exempt from public disclosures. The department of homeland
24 security and emergency management ~~division~~ may provide all or
25 part of the critical asset plan to federal, state, or local
26 governmental agencies which have emergency planning or response
27 functions if the ~~administrator~~ director is satisfied that
28 the need to know and intended use are reasonable. An agency
29 receiving critical asset protection plan information from the
30 ~~division~~ department shall not redisseminate the information
31 without prior approval of the ~~administrator~~ director.

32 Sec. 8. Section 23A.2, subsection 10, paragraph m, Code
33 2013, is amended to read as follows:

34 m. The repair, calibration, or maintenance of radiological
35 detection equipment by the department of homeland security

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1 and emergency management ~~division of the department of public~~
2 ~~defense.~~

3 Sec. 9. Section 29.1, Code 2013, is amended to read as
4 follows:

5 **29.1 Department of public defense.**

6 The department of public defense is composed of the ~~military~~
7 ~~division and the homeland security and emergency management~~
8 ~~division~~ office of the adjutant general and the military forces
9 of the state of Iowa. The adjutant general is the director of
10 the department of public defense and ~~the budget and personnel~~
11 ~~of all of the divisions are subject to the approval of the~~
12 adjutant general shall perform all functions, responsibilities,
13 powers, and duties over the military forces of the state of
14 Iowa as provided in the laws of the state. ~~The Iowa emergency~~
15 ~~response commission established by section 30.2 is attached to~~
16 ~~the department of public defense for organizational purposes.~~

17 Sec. 10. Section 29.2A, Code 2013, is amended to read as
18 follows:

19 **29.2A Airport fire fighters — maximum age.**

20 The maximum age for a person to be employed as an airport
21 fire fighter by the ~~military division of the department of~~
22 public defense is sixty-five years of age.

23 Sec. 11. Section 29A.3A, subsection 4, paragraph a, Code
24 2013, is amended to read as follows:

25 *a.* Operations and administration of the civil air patrol
26 relating to missions not qualifying for federal mission status
27 shall be funded by the state from moneys appropriated to the
28 department of homeland security and emergency management
29 ~~division of the department of public defense~~ for that purpose.

30 Sec. 12. Section 29A.12, subsection 1, Code 2013, is amended
31 to read as follows:

32 1. The adjutant general shall have command and control of
33 the ~~military division~~ department of public defense, and perform
34 such duties as pertain to the office of the adjutant general
35 under law and regulations, pursuant to the authority vested in

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1 the adjutant general by the governor. The adjutant general
2 shall superintend the preparation of all letters and reports
3 required by the United States from the state, and perform all
4 the duties prescribed by law. The adjutant general shall
5 have charge of the state military reservations, and all other
6 property of the state kept or used for military purposes. The
7 adjutant general may accept and expend nonappropriated funds
8 in accordance with law and regulations. The adjutant general
9 shall cause an inventory to be taken at least once each year
10 of all military stores, property, and funds under the adjutant
11 general's jurisdiction. In each year preceding a regular
12 session of the general assembly, the adjutant general shall
13 prepare a detailed report of the transactions of that office,
14 its expenses, and other matters required by the governor for
15 the period since the last preceding report, and the governor
16 may at any time require a similar report.

17 Sec. 13. Section 29A.56, Code 2013, is amended to read as
18 follows:

19 **29A.56 Special police.**

20 The adjutant general may by order entered of record
21 commission one or more of the employees of the ~~military~~
22 ~~division~~ department of public defense as special police. Such
23 special police shall on the premises of any state military
24 reservation or other state military property have and exercise
25 the powers of regular peace officers.

26 Sec. 14. Section 29C.1, subsection 1, Code 2013, is amended
27 to read as follows:

28 1. To establish a department of homeland security
29 and emergency management ~~division of the department of~~
30 ~~public defense~~ and to authorize the establishment of local
31 organizations for emergency management in the political
32 subdivisions of the state.

33 Sec. 15. Section 29C.2, Code 2013, is amended by adding the
34 following new subsections:

35 NEW SUBSECTION. 1A. "Department" means the department of

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1 homeland security and emergency management.

2 NEW SUBSECTION. 1B. "*Director*" means the director of the
3 department of homeland security and emergency management.

4 Sec. 16. Section 29C.5, Code 2013, is amended to read as
5 follows:

6 **29C.5 ~~Homeland~~ Department of homeland security and emergency**
7 **management division.**

8 A The department of homeland security and emergency
9 management ~~division~~ is created ~~within the department of public~~
10 ~~defense~~. The department of homeland security and emergency
11 management ~~division~~ shall be responsible for the administration
12 of emergency planning matters, including emergency resource
13 planning in this state, cooperation with, support of, funding
14 for, and tasking of the civil air patrol for missions not
15 qualifying for federal mission status as described in section
16 29A.3A in accordance with operational and funding criteria
17 developed with the adjutant general and coordinated with
18 the civil air patrol, homeland security activities, and
19 coordination of available services and resources in the event
20 of a disaster to include those services and resources of the
21 federal government and private entities. The Iowa emergency
22 response commission established by section 30.2 is attached to
23 the department of homeland security and emergency management
24 for organizational purposes.

25 Sec. 17. Section 29C.8, Code 2013, is amended to read as
26 follows:

27 **29C.8 Powers and duties of ~~administrator~~ director.**

28 1. The department of homeland security and emergency
29 management ~~division~~ shall be under the management of an
30 ~~administrator~~ a director appointed by the governor.

31 2. The ~~administrator~~ director shall be vested with the
32 authority to administer emergency management and homeland
33 security affairs in this state and shall be responsible for
34 preparing and executing the emergency management and homeland
35 security programs of this state subject to the direction of the

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1 ~~adjutant-general~~ governor. In the event of a disaster beyond
2 local control, the director may assume direct operational
3 control over all or any part of the emergency management
4 functions within this state.

5 3. The ~~administrator~~ director, upon the direction of
6 the governor ~~and supervisory control of the director of the~~
7 ~~department of public defense~~, shall:

8 a. Prepare a comprehensive emergency plan and emergency
9 management program for homeland security, disaster
10 preparedness, response, recovery, mitigation, emergency
11 operation, and emergency resource management of this state.
12 The plan and program shall be integrated into and coordinated
13 with the homeland security and emergency plans of the federal
14 government and of other states to the fullest possible extent
15 ~~and~~. The director shall also coordinate the preparation of
16 plans and programs for emergency management of the political
17 subdivisions and various state departments of this state.
18 The plans shall be integrated into and coordinated with a
19 comprehensive state homeland security and emergency program for
20 this state as coordinated by the ~~administrator of the homeland~~
21 ~~security and emergency management division~~ director to the
22 fullest possible extent.

23 b. Make such studies and surveys of the industries,
24 resources, and facilities in this state as may be necessary to
25 ascertain the vulnerabilities of critical state infrastructure
26 and assets to attack and the capabilities of the state for
27 disaster recovery, disaster planning and operations, and
28 emergency resource management, and to plan for the most
29 efficient emergency use thereof.

30 c. Provide technical assistance to any commission requiring
31 the assistance in the development of an emergency management
32 or homeland security program.

33 d. Implement planning and training for emergency response
34 teams as mandated by the federal government under the
35 Comprehensive Environmental Response, Compensation, and

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1 Liability Act of 1980 as amended by the Superfund Amendments
2 and Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq.

3 e. Prepare a critical asset protection plan that contains
4 an inventory of infrastructure, facilities, systems, other
5 critical assets, and symbolic landmarks; an assessment of the
6 criticality, vulnerability, and level of threat to the assets;
7 and information pertaining to the mobilization, deployment, and
8 tactical operations involved in responding to or protecting the
9 assets.

10 f. Approve and support the development and ongoing
11 operations of homeland security and emergency response teams to
12 be deployed as a resource to supplement and enhance disrupted
13 or overburdened local emergency and disaster operations and
14 deployed as available to provide assistance to other states
15 pursuant to the interstate emergency management assistance
16 compact described in section 29C.21. The following shall apply
17 to homeland security and emergency response teams:

18 (1) A member of a homeland security and emergency response
19 team acting under this section upon the directive of the
20 ~~administrator~~ director or pursuant to a governor's disaster
21 proclamation as provided in section 29C.6 shall be considered
22 an employee of the state for purposes of section 29C.21 and
23 chapter 669 and shall be afforded protection as an employee
24 of the state under section 669.21. Disability, workers'
25 compensation, and death benefits for team members working
26 under the authority of the ~~administrator~~ director or pursuant
27 to the provisions of section 29C.6 shall be paid by the
28 state in a manner consistent with the provisions of chapter
29 85, 410, or 411 as appropriate, depending on the status of
30 the member, provided that the member is registered with the
31 ~~homeland security and emergency management division~~ department
32 as a member of an approved team and is participating as a
33 team member in a response or recovery operation initiated
34 by the ~~administrator~~ director or governor pursuant to this
35 section or in a training or exercise activity approved by the



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1 ~~administrator~~ director.

2 (2) Each approved homeland security and emergency
3 management response team shall establish standards for
4 team membership, shall provide the ~~division~~ department with
5 a listing of all team members, and shall update the list
6 each time a member is removed from or added to the team.
7 Individuals so identified as team members shall be considered
8 to be registered as team members for purposes of subparagraph
9 (1).

10 (3) Upon notification of a compensable loss to a member of
11 a homeland security and emergency management response team, the
12 department of administrative services shall process the claim
13 and seek authorization from the executive council to pay as an
14 expense paid from the appropriations addressed in section 7D.29
15 those costs associated with covered benefits.

16 g. Implement and support the national incident management
17 system as established by the United States department of
18 homeland security to be used by state agencies and local and
19 tribal governments to facilitate efficient and effective
20 assistance to those affected by emergencies and disasters.

21 h. Carry out duties related to the flood mitigation program
22 and the flood mitigation board under chapter 418.

23 4. The ~~administrator~~ director, with the approval of the
24 governor ~~and upon recommendation of the adjutant general~~, may
25 employ a deputy ~~administrator~~ director and such technical,
26 clerical, stenographic, and other personnel and make such
27 expenditures within the appropriation or from other funds made
28 available to the department ~~of public defense for purposes of~~
29 ~~emergency management~~, as may be necessary to administer this
30 chapter.

31 5. The ~~homeland security and emergency management division~~
32 department may charge fees for the repair, calibration, or
33 maintenance of radiological detection equipment and may expend
34 funds in addition to funds budgeted for the servicing of the
35 radiological detection equipment. The ~~division~~ department

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1 shall adopt rules pursuant to chapter 17A providing for the
2 establishment and collection of fees for radiological detection
3 equipment repair, calibration, or maintenance services and
4 for entering into agreements with other public and private
5 entities to provide the services. Fees collected for repair,
6 calibration, or maintenance services shall be treated as
7 repayment receipts as defined in section 8.2 and shall be used
8 for the operation of the ~~division's~~ department's radiological
9 maintenance facility or radiation incident response training.

10 Sec. 18. Section 29C.8A, subsection 2, Code 2013, is amended
11 to read as follows:

12 2. The emergency response fund shall be administered by the
13 ~~homeland security and emergency management division~~ department
14 to carry out planning and training for the emergency response
15 teams.

16 Sec. 19. Section 29C.9, subsections 1, 5, 7, 8, and 10, Code
17 2013, are amended to read as follows:

18 1. The county boards of supervisors, city councils, and
19 the sheriff in each county shall cooperate with the ~~homeland~~
20 ~~security and emergency management division of the department of~~
21 ~~public defense~~ department to establish a commission to carry
22 out the provisions of this chapter.

23 5. The commission shall model its bylaws and conduct its
24 business according to the guidelines provided in the ~~state~~
25 ~~division's~~ department's administrative rules.

26 7. The commission shall delegate to the emergency
27 management coordinator the authority to fulfill the
28 commission duties as described in the ~~division's~~ department's
29 administrative rules. Each commission shall appoint a
30 local emergency management coordinator who shall meet the
31 qualifications specified in the administrative rules by the
32 ~~administrator of the homeland security and emergency management~~
33 ~~division~~ director. Additional emergency management personnel
34 may be appointed at the discretion of the commission.

35 8. The commission shall develop, adopt, and submit

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1 for approval by local governments within the commission's
2 jurisdiction, a comprehensive emergency plan which meets
3 standards adopted by the ~~division~~ department in accordance with
4 chapter 17A. If an approved comprehensive emergency plan has
5 not been prepared according to established standards and the
6 ~~administrator of the homeland security and emergency management~~
7 ~~division~~ director finds that satisfactory progress is not being
8 made toward the completion of the plan, or if the ~~administrator~~
9 director finds that a commission has failed to appoint a
10 qualified emergency management coordinator as provided in this
11 chapter, the ~~administrator~~ director shall notify the governing
12 bodies of the counties and cities affected by the failure
13 and the governing bodies shall not appropriate any moneys to
14 the local emergency management fund until the comprehensive
15 emergency plan is prepared and approved or a qualified
16 emergency management coordinator is appointed. If the
17 ~~administrator~~ director finds that a commission has appointed an
18 unqualified emergency management coordinator, the ~~administrator~~
19 director shall notify the commission citing the qualifications
20 which are not met and the commission shall not approve the
21 payment of the salary or expenses of the unqualified emergency
22 management coordinator.

23 10. Two or more commissions may, upon review by the
24 ~~state administrator~~ director and with the approval of their
25 respective boards of supervisors and cities, enter into
26 agreements pursuant to chapter 28E for the joint coordination
27 and administration of emergency management services throughout
28 the multicounty area.

29 Sec. 20. Section 29C.11, subsection 1, Code 2013, is amended
30 to read as follows:

31 1. The local emergency management commission shall, in
32 collaboration with other public and private agencies within
33 this state, develop mutual aid arrangements for reciprocal
34 disaster services and recovery aid and assistance in case
35 of disaster too great to be dealt with unassisted. The

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1 arrangements shall be consistent with the ~~homeland security and~~
2 ~~emergency management division~~ department plan and program, and
3 in time of emergency each local emergency management agency
4 shall render assistance in accordance with the provisions of
5 the mutual aid arrangements.

6 Sec. 21. Section 29C.12, Code 2013, is amended to read as
7 follows:

8 **29C.12 Use of existing facilities.**

9 In carrying out the provisions of this chapter, the
10 governor, ~~and the director of the department of public defense,~~
11 and the executive officers or governing boards of political
12 subdivisions of the state shall utilize, to the maximum extent
13 practicable, the services, equipment, supplies, and facilities
14 of existing departments, officers, and agencies of the state
15 and of political subdivisions at their respective levels of
16 responsibility.

17 Sec. 22. Section 29C.12A, Code 2013, is amended to read as
18 follows:

19 **29C.12A Participation in funding disaster recovery facility.**

20 All state government departments and agencies may
21 participate in sharing the cost of the design, construction,
22 and operation of a disaster recovery facility located in the
23 ~~STARC joint forces headquarters~~ armory at Camp Dodge. State
24 departments and agencies may use funds from any source,
25 including but not limited to user fees and appropriations
26 for operational or capital purposes, to participate in the
27 facility.

28 Sec. 23. Section 29C.14, Code 2013, is amended to read as
29 follows:

30 **29C.14 Director of the department of administrative services**
31 **to issue warrants.**

32 The director of the department of administrative services
33 shall draw warrants on the treasurer of state for the purposes
34 specified in this chapter, upon duly itemized and verified
35 vouchers that have been approved by the ~~administrator~~ director

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1 of the department of homeland security and emergency management
2 ~~division~~.

3 Sec. 24. Section 29C.18, subsection 1, Code 2013, is amended
4 to read as follows:

5 1. Every organization for homeland security and emergency
6 management established pursuant to this chapter and its
7 officers shall execute and enforce the orders or rules made by
8 the governor, or under the governor's authority and the orders
9 or rules made by subordinate organizations and not contrary or
10 inconsistent with the orders or rules of the governor.

11 Sec. 25. Section 29C.20B, Code 2013, is amended to read as
12 follows:

13 **29C.20B Disaster case management.**

14 1. The department of homeland security and emergency
15 management ~~division~~ shall work with the department of
16 human services and nonprofit, voluntary, and faith-based
17 organizations active in disaster recovery and response to
18 establish a statewide system of disaster case management
19 to be activated following the governor's proclamation of a
20 disaster emergency or the declaration of a major disaster by
21 the president of the United States for individual assistance
22 purposes. Under the system, the department of homeland
23 security and emergency management ~~division~~ shall coordinate
24 case management services locally through local committees as
25 established in each commission's emergency plan.

26 2. The department of homeland security and emergency
27 management ~~division~~, in conjunction with the department of
28 human services and an Iowa representative to the national
29 voluntary organizations active in disaster, shall adopt rules
30 pursuant to chapter 17A to create coordination mechanisms
31 and standards for the establishment and implementation of
32 a statewide system of disaster case management which shall
33 include at least all of the following:

34 a. Disaster case management standards.

35 b. Disaster case management policies.

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1 *c.* Reporting requirements.
2 *d.* Eligibility criteria.
3 *e.* Coordination mechanisms necessary to carry out the
4 services provided.
5 *f.* Development of formal working relationships with
6 agencies and creation of interagency agreements for those
7 considered to provide disaster case management services.
8 *g.* Coordination of all available services for individuals
9 from multiple agencies.
10 Sec. 26. Section 29C.22, subsection 3, paragraph c, Code
11 2013, is amended to read as follows:
12 *c.* The authorized representative of a participating
13 government may initiate a request by contacting the department
14 of homeland security and emergency management ~~division of the~~
15 ~~state department of public defense~~. When a request is received
16 by the ~~division~~ department, the ~~division~~ department shall
17 directly contact other participating governments to coordinate
18 the provision of mutual aid.
19 Sec. 27. Section 29C.22, subsection 11, paragraphs b and c,
20 Code 2013, are amended to read as follows:
21 *b.* Any participating government may withdraw from this
22 compact by adopting an ordinance or resolution repealing the
23 same, but a withdrawal shall not take effect until thirty days
24 after the governing body of the withdrawing participating
25 government has given notice in writing of the withdrawal to the
26 ~~administrator~~ director of the department of homeland security
27 and emergency management ~~division~~ who shall notify all other
28 participating governments. The action shall not relieve the
29 withdrawing political subdivision from obligations assumed
30 under this compact prior to the effective date of withdrawal.
31 *c.* Duly authenticated copies of this compact and any
32 supplementary agreements as may be entered into shall
33 be deposited, at the time of their approval, with the
34 ~~administrator~~ director of the department of homeland security
35 and emergency management ~~division~~ who shall notify all

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1 participating governments and other appropriate agencies of
2 state government.

3 Sec. 28. Section 30.2, subsections 1 and 2, Code 2013, are
4 amended to read as follows:

5 1. The Iowa emergency response commission is established.
6 The commission is responsible directly to the governor. The
7 commission is attached to the department of ~~public defense~~
8 homeland security and emergency management for routine
9 administrative and support services only.

10 2. a. The commission is composed of ~~fifteen~~ sixteen members
11 appointed by the governor. One member shall be appointed to
12 represent the department of homeland security and emergency
13 management, one to represent the department of agriculture and
14 land stewardship, one to represent the department of workforce
15 development, one to represent the department of justice, one to
16 represent the department of natural resources, one to represent
17 the department of public defense, one to represent the Iowa
18 department of public health, one to represent the department
19 of public safety, one to represent the state department of
20 transportation, one to represent the state fire service and
21 emergency response council, one to represent a local emergency
22 planning committee, one to represent the Iowa hazardous
23 materials task force, and one to represent the office of the
24 governor. Three representatives from private industry shall
25 also be appointed by the governor, subject to confirmation by
26 the senate.

27 b. The commission members representing the departments
28 of homeland security and emergency management, workforce
29 development, natural resources, public defense, public safety,
30 and transportation, a local emergency planning committee,
31 and one private industry representative designated by the
32 commission shall be voting members of the commission. The
33 remaining members of the commission shall serve as nonvoting,
34 advisory members.

35 Sec. 29. Section 30.5, subsection 2, Code 2013, is amended

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1 to read as follows:

2 2. The commission may enter into agreements pursuant to
3 chapter 28E to accomplish any duty imposed upon the commission
4 by the Emergency Planning and Community Right-to-know Act,
5 but the commission shall not compensate any governmental unit
6 for the performance of duties pursuant to such an agreement.
7 Funding for administering the duties of the commission under
8 sections 30.7, 30.8, and 30.9 shall be included in the budgets
9 of the department of natural resources and the department of
10 ~~public defense~~ homeland security and emergency management.

11 Sec. 30. Section 30.9, Code 2013, is amended to read as
12 follows:

13 30.9 Duties to be allocated to department of ~~public defense~~
14 homeland security and emergency management.

15 Agreements negotiated by the commission and the department
16 of ~~public defense~~ homeland security and emergency management
17 shall provide for the allocation of duties to the department
18 of ~~public defense~~ homeland security and emergency management
19 as follows:

20 1. Comprehensive emergency plans required to be developed
21 under section 303 of the Emergency Planning and Community
22 ~~Right-to-Know~~ Right-to-know Act, 42 U.S.C. § 11003, shall
23 be submitted to the department of ~~public defense~~ homeland
24 security and emergency management. Committee submission to
25 that department constitutes compliance with the requirement for
26 reporting to the commission. After initial submission, a plan
27 need not be resubmitted unless revisions are requested by the
28 commission. The department of ~~public defense~~ homeland security
29 and emergency management shall review the plan on behalf of the
30 commission and shall incorporate the provisions of the plan
31 into its responsibilities under chapter 29C.

32 2. The department of ~~public defense~~ homeland security and
33 emergency management shall advise the commission of the failure
34 of any committee to submit an initial comprehensive emergency
35 response and recovery plan or a revised plan requested by the

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1 commission.

2 3. The department of ~~public defense~~ homeland security and
3 emergency management shall make available to the public upon
4 request during normal working hours the information in its
5 possession pursuant to section 324 of the Emergency Planning
6 and Community ~~Right-to-Know~~ Right-to-know Act, 42 U.S.C.
7 § 11044.

8 Sec. 31. Section 34A.2, subsection 2, Code 2013, is amended
9 by striking the subsection.

10 Sec. 32. Section 34A.2, Code 2013, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 3A. "*Director*" means the director of the
13 department of homeland security and emergency management.

14 Sec. 33. Section 34A.2A, Code 2013, is amended to read as
15 follows:

16 **34A.2A Program manager — appointment — duties.**

17 1. The ~~administrator~~ director of the department of homeland
18 security and emergency management ~~division of the department~~
19 ~~of public defense~~ shall appoint an E911 program manager to
20 administer this chapter.

21 2. The E911 program manager shall act under the supervisory
22 control of the ~~administrator~~ director of the department of
23 homeland security and emergency management ~~division of the~~
24 ~~department of public defense~~, and in consultation with the
25 E911 communications council, and shall perform the duties
26 specifically set forth in this chapter and as assigned by the
27 ~~administrator~~ director.

28 Sec. 34. Section 34A.6, subsection 3, Code 2013, is amended
29 to read as follows:

30 3. The secretary of state, in consultation with the
31 ~~administrator~~ director, shall adopt rules for the conduct of
32 joint E911 service referendums as required by and consistent
33 with subsections 1 and 2.

34 Sec. 35. Section 34A.7A, subsection 1, paragraph a, Code
35 2013, is amended to read as follows:

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1 ~~a.~~ Notwithstanding section 34A.6, the ~~administrator~~
2 director shall adopt by rule a monthly surcharge of up
3 to sixty-five cents to be imposed on each communications
4 service number provided in this state. The surcharge shall
5 be imposed uniformly on a statewide basis and simultaneously
6 on all communications service numbers as provided by rule
7 of the ~~administrator~~ director. The surcharge shall not be
8 imposed on wire-line-based communications or prepaid wireless
9 telecommunications service.

10 Sec. 36. Section 34A.7A, subsection 2, paragraphs a and f,
11 Code 2013, are amended to read as follows:

12 ~~a.~~ An amount as appropriated by the general assembly to the
13 ~~administrator~~ director shall be allocated to the ~~administrator~~
14 director and program manager for implementation, support, and
15 maintenance of the functions of the ~~administrator~~ director and
16 program manager and to employ the auditor of state to perform
17 an annual audit of the E911 emergency communications fund.

18 ~~f.~~ The ~~administrator~~ director, in consultation with the
19 program manager and the E911 communications council, shall
20 adopt rules pursuant to chapter 17A governing the distribution
21 of the surcharge collected and distributed pursuant to this
22 subsection. The rules shall include provisions that all joint
23 E911 service boards and the department of public safety which
24 answer or service wireless E911 calls are eligible to receive
25 an equitable portion of the receipts.

26 Sec. 37. Section 34A.15, subsection 3, Code 2013, is amended
27 to read as follows:

28 3. The council shall advise and make recommendations to
29 the ~~administrator~~ director and program manager regarding
30 the implementation of this chapter. Such advice and
31 recommendations shall be provided on issues at the request of
32 the ~~administrator~~ director or program manager or as deemed
33 necessary by the council.

34 Sec. 38. Section 35A.5, subsection 16, Code 2013, is amended
35 to read as follows:

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1 16. In coordination with the ~~military division of the~~
2 department of public defense, advise service members prior to,
3 and after returning from, deployment on active duty service
4 outside the United States of issues related to the filing
5 of tax returns and the payment of taxes due and encourage a
6 service member who has not filed a return or who owes taxes to
7 contact the department of revenue prior to deployment.

8 Sec. 39. Section 80.28, subsection 2, paragraph a,
9 subparagraph (3), Code 2013, is amended to read as follows:

10 (3) One member representing the department of homeland
11 security and emergency management ~~division~~.

12 Sec. 40. Section 80B.11C, Code 2013, is amended to read as
13 follows:

14 **80B.11C Telecommunicator training standards.**

15 The director of the academy, subject to the approval of
16 the council, in consultation with the Iowa state sheriffs'
17 and deputies' association, the Iowa police executive forum,
18 the Iowa peace officers association, the Iowa state police
19 association, the Iowa professional fire fighters, the Iowa
20 emergency medical services association, the joint council of
21 Iowa fire service organizations, the Iowa department of public
22 safety, the Iowa chapter of the association of public-safety
23 communications officials—international, inc., the Iowa chapter
24 of the national emergency number association, the department of
25 homeland security and emergency management ~~division of the Iowa~~
26 ~~department of public defense~~, and the Iowa department of public
27 health, shall adopt rules pursuant to chapter 17A establishing
28 minimum standards for training of telecommunicators. For
29 purposes of this section, "telecommunicator" means a person who
30 receives requests for, or dispatches requests to, emergency
31 response agencies which include, but are not limited to, law
32 enforcement, fire, rescue, and emergency medical services
33 agencies.

34 Sec. 41. Section 97B.49B, subsection 1, paragraph e,
35 subparagraph (8), Code 2013, is amended to read as follows:

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1 (8) An airport fire fighter employed by the ~~military~~
2 ~~division of the~~ department of public defense.

3 Sec. 42. Section 100B.22, subsection 1, paragraph a, Code
4 2013, is amended to read as follows:

5 a. Regional emergency response training centers shall be
6 established to provide training to fire fighters and other
7 emergency responders. The lead public agency for the training
8 centers shall be the following community colleges for the
9 following merged areas:

10 (1) Northeast Iowa community college for merged area I
11 in partnership with the Dubuque county firemen's association
12 and to provide advanced training in agricultural emergency
13 response as such advanced training is funded by the department
14 of homeland security and emergency management ~~division of the~~
15 ~~department of public defense.~~

16 (2) North Iowa area community college for merged area II in
17 partnership with the Mason City fire department.

18 (3) Iowa lakes community college for merged area III and
19 northwest Iowa community college for merged area IV.

20 (4) Iowa central community college for merged area V and to
21 provide advanced training in homeland security as such advanced
22 training is funded by the department of homeland security and
23 emergency management ~~division of the department of public~~
24 ~~defense.~~

25 (5) Hawkeye community college for merged area VII in
26 partnership with the Waterloo regional hazardous materials
27 training center and to provide advanced training in hazardous
28 materials emergency response as such advanced training is
29 funded by the department of homeland security and emergency
30 management ~~division of the department of public defense.~~

31 (6) Eastern Iowa community college for merged area IX in
32 partnership with the city of Davenport fire department.

33 (7) Kirkwood community college for merged area X in
34 partnership with the city of Coralville fire department and the
35 Iowa City fire department and to provide advanced training in

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1 agricultural terrorism response and mass casualty and fatality
2 response as such advanced training is funded by the department
3 of homeland security and emergency management ~~division of the~~
4 ~~department of public defense.~~

5 (8) Des Moines area community college for merged area XI and
6 Iowa valley community college for merged area VI and to provide
7 advanced training in operations integration in compliance
8 with the national incident management system as such advanced
9 training is funded by the department of homeland security and
10 ~~emergency management division of the department of public~~
11 ~~defense.~~

12 (9) Western Iowa technical community college for merged
13 area XII in partnership with the Sioux City fire department
14 and to provide advanced training in emergency responder
15 communications as such advanced training is funded by the
16 department of homeland security and emergency management
17 ~~division of the department of public defense.~~

18 (10) Iowa western community college for merged areas XIII
19 and XIV in partnership with southwestern community college and
20 the Council Bluffs fire department.

21 (11) Southeastern Iowa community college for merged areas
22 XV and XVI in partnership with Indian hills community college
23 and the city of Fort Madison fire department.

24 Sec. 43. Section 135.141, subsection 2, paragraphs a and j,
25 Code 2013, are amended to read as follows:

26 a. Coordinate with the department of homeland security
27 and emergency management ~~division of the department of public~~
28 ~~defense~~ the administration of emergency planning matters
29 which involve the public health, including development,
30 administration, and execution of the public health components
31 of the comprehensive emergency plan and emergency management
32 program pursuant to section 29C.8.

33 j. Adopt rules pursuant to chapter 17A for the
34 administration of this division of this chapter including rules
35 adopted in cooperation with the Iowa pharmacy association

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1 and the Iowa hospital association for the development of a
2 surveillance system to monitor supplies of drugs, antidotes,
3 and vaccines to assist in detecting a potential public health
4 disaster. Prior to adoption, the rules shall be approved by
5 the state board of health and the ~~administrator~~ director of
6 the department of homeland security and emergency management
7 ~~division of the department of public defense.~~

8 Sec. 44. Section 135.145, subsections 1 and 2, Code 2013,
9 are amended to read as follows:

10 1. When the department of public safety or other federal,
11 state, or local law enforcement agency learns of a case of a
12 disease or health condition, unusual cluster, or a suspicious
13 event that may be the cause of a public health disaster, the
14 department or agency shall immediately notify the department,
15 the ~~administrator~~ director of the department of homeland
16 security and emergency management ~~division of the department~~
17 ~~of public defense~~, the department of agriculture and land
18 stewardship, and the department of natural resources as
19 appropriate.

20 2. When the department learns of a case of a disease
21 or health condition, an unusual cluster, or a suspicious
22 event that may be the cause of a public health disaster, the
23 department shall immediately notify the department of public
24 safety, the department of homeland security and emergency
25 management ~~division of the department of public defense~~, and
26 other appropriate federal, state, and local agencies and
27 officials.

28 Sec. 45. Section 163.3A, subsection 2, Code 2013, is amended
29 to read as follows:

30 2. The services shall be performed under the direction of
31 the department and may be part of measures authorized by the
32 governor under a declaration or proclamation issued pursuant to
33 chapter 29C. In such case, the department shall cooperate with
34 the Iowa department of public health under chapter 135, and the
35 department of ~~public defense~~, homeland security and emergency

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1 management ~~division~~, and local emergency management agencies as
2 provided in chapter 29C.

3 Sec. 46. Section 163.51, subsection 2, paragraph b, Code
4 2013, is amended to read as follows:

5 b. If the department confirms an outbreak of foot and
6 mouth disease in this state, the department shall cooperate
7 with the governor; federal agencies, including the United
8 States department of agriculture; and state agencies, including
9 the department of homeland security and emergency management
10 ~~division of the department of public defense~~, in order to
11 provide the public with timely and accurate information
12 regarding the outbreak. The department shall cooperate with
13 organizations representing agricultural producers in order to
14 provide all necessary information to agricultural producers
15 required to control the outbreak.

16 Sec. 47. Section 305.8, subsection 1, paragraph b, Code
17 2013, is amended to read as follows:

18 b. In consultation with the department of homeland security
19 and emergency management ~~division of the department of public~~
20 ~~defense~~, establish policies, standards, and guidelines for
21 the identification, protection, and preservation of records
22 essential for the continuity or reestablishment of governmental
23 functions in the event of an emergency arising from a natural
24 or other disaster.

25 Sec. 48. Section 418.1, subsection 3, Code 2013, is amended
26 to read as follows:

27 3. "~~Division~~" "Department" means the department of homeland
28 security and emergency management ~~division of the department~~
29 ~~of public defense~~.

30 Sec. 49. Section 418.5, subsection 1, Code 2013, is amended
31 to read as follows:

32 1. The flood mitigation board is established consisting of
33 nine voting members and four ex officio, nonvoting members, and
34 is located for administrative purposes within the division.
35 The ~~administrator~~ director of the ~~division~~ department shall

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1 provide office space, staff assistance, and necessary supplies
2 and equipment for the board. The ~~administrator~~ director shall
3 budget funds to pay the necessary expenses of the board. In
4 performing its functions, the board is performing a public
5 function on behalf of the state and is a public instrumentality
6 of the state.

7 Sec. 50. Section 418.5, subsection 2, paragraph e, Code
8 2013, is amended to read as follows:

9 e. The ~~administrator~~ director of the ~~division~~ department or
10 the ~~administrator's~~ director's designee.

11 Sec. 51. Section 418.7, Code 2013, is amended to read as
12 follows:

13 **418.7 Division Department duties.**

14 The ~~division~~ department, subject to approval by the board,
15 shall adopt administrative rules pursuant to chapter 17A
16 necessary to administer the flood mitigation program. The
17 ~~division~~ department shall provide the board with assistance in
18 implementing administrative functions and providing technical
19 assistance and application assistance to applicants under the
20 program.

21 Sec. 52. Section 418.8, subsection 1, Code 2013, is amended
22 to read as follows:

23 1. The board shall establish and the ~~division~~ department,
24 subject to direction and approval by the board, shall
25 administer a flood mitigation program to assist governmental
26 entities in undertaking projects approved under this chapter.
27 The flood mitigation program shall include projects approved
28 by the board to utilize either financial assistance from
29 the flood mitigation fund created under section 418.10 or
30 sales tax revenues remitted to the governmental entity under
31 section 418.12. A governmental entity shall not be approved
32 by the board to utilize both financial assistance from the
33 flood mitigation fund and sales tax revenues remitted to the
34 governmental entity.

35 Sec. 53. Section 418.9, subsections 4 and 7, Code 2013, are

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1 amended to read as follows:

2 4. Upon review of the applications, the board, following
3 consultation with the economic development authority, shall
4 approve, defer, or deny the applications. If a project plan
5 is denied, the board shall state the reasons for the denial
6 and the governmental entity may resubmit the application so
7 long as the application is filed on or before January 1, 2016.
8 If a project plan application is approved, the board shall
9 specify whether the governmental entity is approved for the
10 use of sales tax revenues under section 418.12 or whether the
11 governmental entity is approved to receive financial assistance
12 from the flood mitigation fund under section 418.10. If
13 the board approves a project plan application that includes
14 financial assistance from the flood mitigation fund, the
15 board shall negotiate and execute on behalf of the ~~division~~
16 department all necessary agreements to provide such financial
17 assistance. If the board approves a project plan application
18 that includes the use of sales tax increment revenues, the
19 board shall establish the annual maximum amount of such
20 revenues that may be remitted to the governmental entity
21 not to exceed the limitations in section 418.12, subsection
22 4. The board may, however, establish remittance limitations
23 for the project lower than the individual project remittance
24 limitations specified for projects under section 418.12,
25 subsection 4.

26 7. Upon approval of an application for financial assistance
27 under the program, the board shall notify the treasurer of
28 state regarding the amount of moneys needed to satisfy the
29 award of financial assistance and the terms of the award.
30 The treasurer of state shall notify the ~~division~~ department
31 any time moneys are disbursed to a recipient of financial
32 assistance under the program.

33 Sec. 54. Section 455B.266, subsection 1, paragraph d, Code
34 2013, is amended to read as follows:

35 d. Determination by the department in conjunction with

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1 the department of homeland security and emergency management
2 ~~division of the department of public defense~~ of a local crisis
3 which affects availability of water.

4 Sec. 55. Section 455B.385, Code 2013, is amended to read as
5 follows:

6 **455B.385 State hazardous condition contingency plan.**

7 All public agencies, as defined in chapter 28E, shall
8 cooperate in the development and implementation of a state
9 hazardous condition contingency plan. The plan shall detail
10 the manner in which public agencies shall participate in the
11 response to a hazardous condition. The director may enter
12 into agreements, with approval of the commission, with any
13 state agency or unit of local government or with the federal
14 government, as necessary to develop and implement the plan.
15 The plan shall be coordinated with the department of homeland
16 security and emergency management ~~division of the department~~
17 ~~of public defense~~ and any joint emergency management agencies
18 established pursuant to chapter 29C.

19 Sec. 56. Section 466B.3, subsection 4, paragraph d, Code
20 2013, is amended to read as follows:

21 d. The ~~administrator~~ director of the department of homeland
22 security and emergency management ~~division of the department of~~
23 ~~public defense~~ or the ~~administrator's~~ director's designee.

24 Sec. 57. REPEAL. Sections 29.2, 29.3, and 29C.7, Code 2013,
25 are repealed.

26 Sec. 58. TRANSITION PROVISIONS.

27 1. Any rule, regulation, form, order, or directive
28 promulgated by the division of homeland security and
29 emergency management of the department of public defense shall
30 continue in full force and effect until amended, repealed,
31 or supplemented by affirmative action of the department of
32 homeland security and emergency management as established in
33 this Act.

34 2. All employees of the division of homeland security and
35 emergency management of the department of public defense shall

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1 be considered employees of the department of homeland security
2 and emergency management upon the elimination of the former and
3 creation of the latter as provided in this Act.

4 EXPLANATION

5 Currently, the department of public defense is composed
6 of the military division and the homeland security and
7 emergency management division. This bill transfers the
8 homeland security and emergency management division of the
9 department of public defense into a new department of homeland
10 security and emergency management. The bill retains within the
11 department of public defense responsibility over the office of
12 the adjutant general and the military forces of the state of
13 Iowa. The bill provides that the governor appoint the director
14 of the new department. Current duties and responsibilities
15 of the homeland security and emergency management division
16 are transferred to the new department of homeland security
17 and emergency management. In addition, the bill transfers
18 the attachment of the Iowa emergency response commission
19 for routine administrative support from the department of
20 public defense to the new department of homeland security and
21 emergency management.

22 The bill also includes transition provisions relative to
23 the establishment of the department of homeland security
24 and emergency management. The bill provides that any rule,
25 regulation, form, order, or directive promulgated by the
26 division of homeland security and emergency management of the
27 department of public defense shall continue unless modified or
28 otherwise changed by the new department. The bill provides
29 that employees of the division of homeland security and
30 emergency management of the department shall be considered
31 employees of the department of homeland security and emergency
32 management.



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House Study Bill 41 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
ADMINISTRATIVE SERVICES
BILL)

A BILL FOR

1 An Act concerning setoff procedures for collection of debts
2 owed a state agency or political subdivision.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 8A.504, subsection 1, paragraph a, Code
2 2013, is amended to read as follows:

3 a. "Collection entity" means the department of
4 administrative services and any other state agency that
5 maintains a separate accounting system and elects to establish
6 a debt collection setoff procedure for collection of debts owed
7 to ~~the state or its agencies~~ an agency.

8 Sec. 2. Section 8A.504, subsection 1, Code 2013, is amended
9 by adding the following new paragraph:

10 NEW PARAGRAPH. 0b. "Debtor" means a person who is liable
11 on a claim to an agency.

12 Sec. 3. Section 8A.504, subsection 1, paragraph b, Code
13 2013, is amended to read as follows:

14 b. "Person" does not include ~~a state~~ an agency.

15 Sec. 4. Section 8A.504, subsection 1, paragraph d, Code
16 2013, is amended to read as follows:

17 d. ~~"State agency"~~ "Agency" means a board, commission,
18 department, including the department of administrative
19 services, or other administrative office or unit of the
20 state of Iowa or any other state entity reported in the
21 Iowa comprehensive annual financial report, or a political
22 subdivision of the state, or an office or unit of a political
23 subdivision. ~~"State agency"~~ "Agency" does include the clerk
24 of the district court as it relates to the collection of a
25 qualifying debt. ~~"State agency"~~ "Agency" does not include the
26 general assembly or the governor.

27 Sec. 5. Section 8A.504, subsections 2, 3, and 5, Code 2013,
28 are amended to read as follows:

29 2. *Setoff procedure.* The collection entity shall establish
30 and maintain a procedure to set off against any claim owed to a
31 person debtor by ~~a state~~ an agency any liability of that ~~person~~
32 debtor owed to ~~a state~~ an agency, a support debt being enforced
33 by the child support recovery unit pursuant to chapter 252B,
34 or such other qualifying debt. The procedure shall only apply
35 when at the discretion of the director it is feasible. The

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1 procedure shall meet the following conditions:

2 ~~a.~~ Before setoff, a ~~person's~~ debtor's liability to ~~a state~~
3 ~~an~~ agency and the ~~person's~~ debtor's claim on ~~a state~~ an agency
4 shall be in the form of a liquidated sum due, owing, and
5 payable.

6 ~~b.~~ Before setoff, the ~~state~~ agency shall obtain and forward
7 to the collection entity the full name and social security
8 number of the ~~person~~ debtor liable to ~~it~~ the agency or to whom
9 a claim is owing who is a natural person. If the ~~person~~ debtor
10 is not a natural person, before setoff, the ~~state~~ agency shall
11 forward to the collection entity the information concerning the
12 ~~person~~ debtor as the collection entity shall, by rule, require.
13 The collection entity shall cooperate with other ~~state~~ agencies
14 in the exchange of information relevant to the identification
15 of ~~persons~~ debtors liable to or claimants of ~~state~~ agencies.
16 However, the collection entity shall provide only relevant
17 information required by ~~a state~~ an agency. The information
18 shall be held in confidence and used for the purpose of setoff
19 only. Section 422.72, subsection 1, does not apply to this
20 paragraph.

21 ~~c.~~ Before setoff, ~~a state~~ an agency shall, at least
22 annually, submit to the collection entity the information
23 required by paragraph "~~b~~" along with the amount of each ~~person's~~
24 debtor's liability to and the amount of each claim on the ~~state~~
25 agency. The collection entity may, by rule, require more
26 frequent submissions.

27 ~~d.~~ Before setoff, the amount of a ~~person's~~ debtor's claim
28 on ~~a state~~ an agency and the amount of a ~~person's~~ debtor's
29 liability to ~~a state~~ an agency shall constitute a minimum
30 amount set by rule of the collection entity.

31 ~~e.~~ Upon submission of an allegation of liability by a
32 ~~state~~ an agency, the collection entity shall notify the ~~state~~
33 agency whether the ~~person~~ debtor allegedly liable is entitled
34 to payment from ~~a state~~ an agency, and, if so entitled, shall
35 notify the ~~state~~ agency of the amount of the ~~person's~~ debtor's

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1 entitlement and of the ~~person's debtor's~~ last address known to
2 the collection entity. Section 422.72, subsection 1, does not
3 apply to this paragraph.

4 *f.* (1) Upon notice of entitlement to a payment, the ~~state~~
5 agency shall send written notification to that ~~person debtor~~
6 of the ~~state~~ agency's assertion of its rights to all or a
7 portion of the payment and of the ~~state~~ agency's entitlement
8 to recover the liability through the setoff procedure, the
9 basis of the assertion, the opportunity to request that a
10 jointly or commonly owned right to payment be divided among
11 owners, and the ~~person's debtor's~~ opportunity to give written
12 notice of intent to contest the amount of the allegation. The
13 ~~state~~ agency shall send a copy of the notice to the collection
14 entity. ~~A state~~ An agency subject to chapter 17A shall give
15 notice, conduct hearings, and allow appeals in conformity with
16 chapter 17A.

17 (2) However, upon submission of an allegation of the
18 liability of a ~~person debtor~~ which is owing and payable to the
19 clerk of the district court and upon the determination by the
20 collection entity that the ~~person debtor~~ allegedly liable is
21 entitled to payment from ~~a state~~ an agency, the collection
22 entity shall send written notification to the ~~person debtor~~
23 which states the assertion by the clerk of the district court
24 of rights to all or a portion of the payment, the clerk's
25 entitlement to recover the liability through the setoff
26 procedure, the basis of the assertions, the ~~person's debtor's~~
27 opportunity to request within fifteen days of the mailing of
28 the notice that the collection entity divide a jointly or
29 commonly owned right to payment between owners, the opportunity
30 to contest the liability to the clerk by written application
31 to the clerk within fifteen days of the mailing of the notice,
32 and the ~~person's debtor's~~ opportunity to contest the collection
33 entity's setoff procedure.

34 *g.* Upon the timely request of a ~~person debtor~~ liable to
35 ~~a state~~ an agency or of the spouse of that ~~person debtor~~ and

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1 upon receipt of the full name and social security number of
2 the ~~person's~~ debtor's spouse, ~~a state~~ an agency shall notify
3 the collection entity of the request to divide a jointly or
4 commonly owned right to payment. Any jointly or commonly owned
5 right to payment is rebuttably presumed to be owned in equal
6 portions by its joint or common owners.

7 *h.* The collection entity ~~shall~~, after the ~~state~~ agency has
8 sent notice to the ~~person~~ debtor liable or, if the liability
9 is owing and payable to the clerk of the district court, after
10 the collection entity has sent notice to the ~~person~~ debtor
11 liable, shall set off the amount owed to the agency against any
12 amount which ~~a state~~ an agency owes that ~~person~~ debtor. The
13 collection entity shall refund any balance of the amount to
14 the ~~person~~ debtor. The collection entity shall periodically
15 transfer amounts set off to the ~~state~~ agencies entitled to
16 them. If a ~~person~~ debtor liable to ~~a state~~ an agency gives
17 written notice of intent to contest an allegation, ~~a state~~ an
18 agency shall hold a refund or rebate until final disposition
19 of the allegation. Upon completion of the setoff, ~~a state~~ an
20 agency shall notify in writing the ~~person~~ debtor who was liable
21 or, if the liability is owing and payable to the clerk of the
22 district court, shall comply with the procedures as provided
23 in paragraph "*j*".

24 *i.* The department of revenue's existing right to credit
25 against tax due or to become due under section 422.73 is not to
26 be impaired by a right granted to or a duty imposed upon the
27 collection entity or other ~~state~~ agency by this section. This
28 section is not intended to impose upon the collection entity or
29 the department of revenue any additional requirement of notice,
30 hearing, or appeal concerning the right to credit against tax
31 due under section 422.73.

32 *j.* If the alleged liability is owing and payable to the
33 clerk of the district court and setoff as provided in this
34 section is sought, all of the following shall apply:

35 (1) The judicial branch shall prescribe procedures to

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1 permit a ~~person debtor~~ to contest the amount of the ~~person's~~
2 ~~debtor's~~ liability to the clerk of the district court.

3 (2) The collection entity shall, except for the procedures
4 described in subparagraph (1), prescribe any other applicable
5 procedures concerning setoff as provided in this subsection.

6 (3) Upon completion of the setoff, the collection entity
7 shall file, at least monthly, with the clerk of the district
8 court a notice of satisfaction of each obligation to the
9 full extent of all moneys collected in satisfaction of the
10 obligation. The clerk shall record the notice and enter a
11 satisfaction for the amounts collected and a separate written
12 notice is not required.

13 k. If the alleged liability is owing and payable to a
14 ~~community college~~ political subdivision and setoff pursuant to
15 this section is sought, both of the following shall apply:

16 (1) In addition to satisfying other applicable setoff
17 procedures established under this subsection, the ~~community~~
18 ~~college~~ political subdivision shall ~~prescribe~~ establish and
19 implement procedures to permit a ~~person debtor~~ to contest the
20 validity or the amount of the person's debtor's liability to
21 the ~~community college~~ political subdivision. Such procedures
22 shall be consistent with and ensure the protection of the
23 ~~person's debtor's~~ right of due process under Iowa law.

24 (2) The collection entity shall, except for the procedures
25 prescribed pursuant to subparagraph (1), prescribe any other
26 applicable procedures concerning setoff as provided in this
27 subsection.

28 3. In the case of multiple claims to payments filed under
29 this section, priority shall be given to claims filed by the
30 child support recovery unit or the foster care recovery unit,
31 next priority shall be given to claims filed by the clerk of
32 the district court, next priority shall be given to claims
33 filed by the college student aid commission, next priority
34 shall be given to claims filed by the investigations division
35 of the department of inspections and appeals, and last priority

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1 shall be given to claims filed by other ~~state~~ agencies. In the
2 case of multiple claims in which the priority is not otherwise
3 provided by this subsection, priority shall be determined in
4 accordance with rules to be established by the director.

5 5. Under substantive rules established by the director, the
6 department shall seek reimbursement from other ~~state~~ agencies
7 to recover its costs for setting off liabilities.

8 Sec. 6. Section 99D.2, subsection 3, Code 2013, is amended
9 to read as follows:

10 3. "*Claimant agency*" means ~~a state~~ an agency as defined in
11 section 8A.504, subsection 1, or the state court administrator
12 as defined in section 602.1101.

13 Sec. 7. Section 99F.1, subsection 4, Code 2013, is amended
14 to read as follows:

15 4. "*Claimant agency*" means ~~a state~~ an agency as defined in
16 section 8A.504, subsection 1, or the state court administrator
17 as defined in section 602.1101.

18 Sec. 8. Section 234.8, Code 2013, is amended to read as
19 follows:

20 **234.8 Fees for child welfare services.**

21 The department of human services may charge a fee for
22 child welfare services to a person liable for the cost of the
23 services. The fee shall not exceed the reasonable cost of the
24 services. The fee shall be based upon the person's ability
25 to pay and consideration of the fee's impact upon the liable
26 person's family and the goals identified in the case permanency
27 plan. The department may assess the liable person for the
28 fee and the means of recovery shall include a setoff against
29 an amount owed by ~~a state~~ an agency to the person assessed
30 pursuant to section 8A.504. In addition the department may
31 establish an administrative process to recover the assessment
32 through automatic income withholding. The department shall
33 adopt rules pursuant to chapter 17A to implement the provisions
34 of this section. This section does not apply to court-ordered
35 services provided to juveniles which are a charge upon the

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1 state pursuant to section 232.141 and services for which the
2 department has established a support obligation pursuant to
3 section 234.39.

4 EXPLANATION

5 This bill concerns setoff procedures established in Code
6 section 8A.504 and used to collect debts owed the state or a
7 political subdivision of the state.

8 The bill redesignates the term "agency" rather than as the
9 defined term "state agency" while keeping the definition the
10 same. The bill also defines "debtor" as a person who is liable
11 on a claim to an agency. Corresponding changes to terms in
12 Code section 8A.504 are made to reflect these changes.

13 Code section 8A.504(2)(k), relating to additional setoff
14 requirements for debts owing and payable to a community
15 college, is amended. The bill provides that the additional
16 requirements apply to political subdivisions, that political
17 subdivisions shall establish and implement these enhanced
18 procedures, and that the procedures shall permit a debtor to
19 contest the validity or the amount of the debtor's claimed
20 liability.



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House Study Bill 42 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON GRASSLEY)

A BILL FOR

1 An Act relating to the corn promotion board by providing for
2 its governance, providing for an assessed checkoff on corn,
3 and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 185C.1, Code 2013, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4A. "*Director*" means a district elected
4 director or a board elected director as provided in section
5 185C.6.

6 Sec. 2. Section 185C.1, subsection 5, Code 2013, is amended
7 to read as follows:

8 5. "*District*" means an official crop reporting district
9 formed by the United States department of agriculture for use
10 on January 1, 2013, and set out in the annual farm census
11 published in that year by the Iowa department of agriculture
12 and land stewardship.

13 Sec. 3. Section 185C.3, Code 2013, is amended to read as
14 follows:

15 **185C.3 Establishment of corn promotion board.**

16 If a majority of the producers voting in the referendum
17 election approve the passage of the promotional order, an Iowa
18 corn promotion board shall be established. ~~The board shall~~
19 ~~consist of one director elected from each district in the~~
20 ~~state, except that a district producing more than an average~~
21 ~~of one hundred million bushels of corn in the three previous~~
22 ~~marketing years is entitled to two directors.~~

23 Sec. 4. Section 185C.6, Code 2013, is amended by striking
24 the section and inserting in lieu thereof the following:

25 **185C.6 Number and election of directors.**

26 The Iowa corn promotion board established pursuant to
27 section 185C.3 shall be composed of directors elected as
28 provided in this chapter. The directors shall include all of
29 the following:

30 1. Nine district elected directors. Each such director
31 shall be elected from a district as provided in section 185C.5,
32 this section, and sections 185C.7 and 185C.8. A candidate
33 receiving the highest number of votes in each district shall be
34 elected to represent that district.

35 2. Three board elected directors. Each such director shall

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1 be elected by the board. The candidate receiving the highest
2 number of votes by the board shall be elected to represent the
3 state on at-large basis.

4 Sec. 5. Section 185C.7, Code 2013, is amended to read as
5 follows:

6 **185C.7 Terms of directors.**

7 1. Director terms A director's term of office shall be for
8 three years ~~and no~~. A district elected director ~~of the board~~
9 shall not serve for more than three complete consecutive terms.
10 A board elected director shall not serve for more than one
11 complete term of office. A district elected director who is
12 elected as board elected director shall not serve more than a
13 total of four terms of office, regardless of whether any of the
14 terms of office are complete or consecutive.

15 2. If the board is reconstituted pursuant to section 185C.8,
16 the terms of the directors shall be controlled by this section.
17 However, the initial terms of the reconstituted board shall
18 be staggered. To the extent practicable, one-third of the
19 elected directors shall serve an initial term of one year,
20 one-third of the elected directors shall serve an initial term
21 of two years, and one-third of the elected directors shall
22 serve an initial term of three years. The initial terms of
23 board elected directors shall be determined by board ~~members~~
24 directors drawing lots. ~~The board elected under this paragraph~~
25 ~~shall not contain two directors from the same district serving~~
26 ~~the same term.~~

27 Sec. 6. Section 185C.8, Code 2013, is amended to read as
28 follows:

29 **185C.8 Elections Administration of elections for directors.**

30 1. The Iowa corn promotion board shall administer elections
31 for district elected directors of the board with the assistance
32 of the secretary. Prior to the expiration of a director's
33 term of office, the board shall appoint a nominating committee
34 for the district represented by that director. The nominating
35 committee shall consist of five producers who are residents

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1 of the district from which a director must be elected. The
2 nominating committee shall nominate two resident producers as
3 candidates for each director position for which an election
4 is to be held. Additional candidates may be nominated by
5 a written petition of twenty-five producers. Procedures
6 governing the time and place of filing shall be adopted and
7 publicized by the board.

8 Following recommencement of the promotional order,
9 or termination of the promotional order's suspension as
10 provided in section 185C.24, the secretary shall order the
11 reconstitution of the board. An election of district elected
12 directors shall be held within thirty days from the date of the
13 order. The secretary shall call for, provide for notice of,
14 conduct, and certify the results of the election in a manner
15 consistent with section 185C.5 through 185C.7. Directors shall
16 serve terms as provided in section 185C.7. Rules or procedures
17 adopted by the board and in effect at the date of suspension
18 shall continue in effect upon reconstitution of the board.
19 The Iowa corn growers association may nominate two resident
20 producers as candidates for each director position. Additional
21 candidates may be nominated by a written petition of at least
22 twenty-five producers.

23 2. The Iowa corn promotion board shall administer elections
24 for board elected directors. Prior to the expiration of a
25 board elected director's term of office, the board may appoint
26 a nominating committee. In order to be eligible for nomination
27 and election, a candidate must have previously served on the
28 board as an elected director. An officer of the board shall
29 certify the results of the election.

30 Sec. 7. Section 185C.10, subsection 3, Code 2013, is amended
31 by striking the subsection.

32 Sec. 8. Section 185C.14, subsection 3, Code 2013, is amended
33 to read as follows:

34 3. The board shall meet at least ~~once every three months~~
35 times each year, and at such other times as deemed necessary

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1 by the board.

2 Sec. 9. Section 185C.21, subsection 2, Code 2013, is amended
3 to read as follows:

4 2. Upon request of the board, the secretary shall call
5 a special referendum for producers to vote on whether to
6 authorize an increase in the state assessment above one-quarter
7 of one cent per bushel, notwithstanding subsection 1. The
8 special referendum shall be conducted as provided in this
9 chapter for referendum elections. However, the special
10 referendum shall not affect the existence or length of the
11 promotional order in effect. If a majority of the producers
12 voting in the special referendum approve the increase, the
13 board may increase the assessment to the amount approved in
14 the special referendum. ~~However, a state assessment shall not~~
15 ~~exceed one cent per bushel of corn marketed in this state.~~

16 Sec. 10. Section 185C.27, Code 2013, is amended to read as
17 follows:

18 **185C.27 Refund of assessment.**

19 A producer who has sold corn and had a state assessment
20 deducted from the sale price, by application in writing to
21 the board, may secure a refund in the amount deducted. The
22 refund shall be payable only when the application shall have
23 been made to the board within sixty days after the deduction.
24 Application forms shall be given by the board to each first
25 purchaser when requested and the first purchaser shall make the
26 applications available to any producer. Each application for
27 refund by a producer shall have attached to the application
28 proof of the assessment deducted. The proof of assessment
29 may be in the form of a duplicate or certified copy of the
30 purchase invoice by the first purchaser. The board shall have
31 thirty business days from the date the application for refund
32 is received to remit the refund to the producer. The board
33 may provide for refunds of a federal assessment as provided by
34 federal law. Unless inconsistent with federal law, refunds
35 shall be made under section 185C.26.

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1 Sec. 11. IMPLEMENTATION. The Iowa corn promotion board
2 established pursuant to section 185C.3 shall implement this
3 Act.

4 1. During the implementation period all of the following
5 shall apply:

6 a. The board shall provide for staggered terms of directors
7 in the same manner as required for the initial terms of office
8 of a reconstituted board pursuant to section 185C.7. However,
9 the board is not required to draw lots as otherwise provided in
10 that section.

11 b. The board is not required to fill a vacancy for an
12 unexpired term as required in section 185C.9.

13 c. The board may reduce the number of years of a director's
14 term in order to comply with this section.

15 2. The board shall complete implementation of this Act not
16 later than July 1, 2014.

17 Sec. 12. EFFECTIVE UPON ENACTMENT. This Act, being deemed
18 of immediate importance, takes effect upon enactment.

19 EXPLANATION

20 GENERAL. This bill amends Code chapter 185C which provides
21 for an assessment on the sale of each bushel of corn, a
22 self-imposed tax or "checkoff", imposed on producers and
23 collected by first purchasers for remission to the Iowa corn
24 promotion board (board) for purposes of promoting the marketing
25 of corn and corn products and to provide for related education
26 and research programs and a financial assistance program (Code
27 sections 185C.11, 185C.11A, and 185C.21). The maximum rate of
28 assessment is one cent per bushel (Code section 185C.21). A
29 producer may claim a refund, and the board has 30 calendar days
30 in order to satisfy that claim (Code section 185C.27).

31 The board of directors are each elected for staggered
32 three-year terms (Code section 185C.7). The districts are
33 based on the official crop reporting districts established
34 by the United States department of agriculture (Code section
35 185C.1). Currently, there are nine districts. Each district



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1 producing more than an average of 100,000,000 bushels of corn
2 in the prior marketing year is entitled to elect two directors
3 (Code section 185C.3). A director cannot serve for more than
4 three complete consecutive terms (Code section 185C.7). The
5 board must meet once every three months (Code section 185C.14).

6 Currently, 17 directors serve on the board. In addition,
7 there are four ex officio, nonvoting members, including
8 the secretary of agriculture, the dean of the college of
9 agriculture and life sciences of Iowa state university
10 of science and technology, the director of the economic
11 development authority, and two representatives of first
12 purchaser organizations (Code section 185C.10).

13 BILL — ORGANIZATION OF DISTRICTS. The bill provides that
14 the nine districts are to be organized based on the crop
15 reporting districts formed by the United States department of
16 agriculture for use on January 1, 2013.

17 BILL — CHANGE IN BOARD GOVERNANCE. The bill provides that
18 12 directors are to be elected to the board. Each of nine
19 districts are to be represented by one director. In addition
20 three directors are to be elected by the board to serve at
21 large. A board elected director must have served as a district
22 elected director. A board director so elected cannot serve
23 more than a total of four terms in office regardless of whether
24 any of the terms are complete or consecutive.

25 The bill removes the director of the economic development
26 authority as an ex officio member.

27 BILL — MEETING TIMES. The bill provides that the board
28 must meet at least three times a year rather than every three
29 months.

30 BILL — ASSESSMENTS. The bill eliminates the maximum one
31 cent per bushel assessment rate. Any increase in the current
32 assessment rate would have to still be accomplished by a
33 special referendum of producers. The bill provides that the
34 board now has 30 business days in order to satisfy a producer's
35 request for a refund.

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1 BILL — IMPLEMENTATION. The board is responsible for
2 implementing the provisions of the bill, including by providing
3 for staggered terms of its directors notwithstanding any
4 applicable procedures in the Code chapter to the contrary. The
5 board must complete its implementation by July 1, 2014.
6 BILL — EFFECTIVE DATE. The bill takes effect upon
7 enactment.



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House Study Bill 43 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act requiring notice of a change of beneficiary under an
2 individual policy of accident and sickness insurance and
3 including applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 514A.3, subsection 1, paragraph 1, Code
2 2013, is amended to read as follows:

3 1. A provision as follows:

4 *Change of beneficiary:* Unless the insured makes an
5 irrevocable designation of beneficiary, the right to change
6 of beneficiary is reserved to the insured and the consent of
7 the beneficiary or beneficiaries shall not be requisite to
8 surrender or assignment of this policy or to any change of
9 beneficiary or beneficiaries, or to any other changes in this
10 policy. However, if a change of beneficiary is made, including
11 but not limited to termination of coverage of a dependent
12 or a former dependent, the insurer shall provide written
13 notification of the change to all beneficiaries of the policy
14 at least sixty days prior to the effective date of the change
15 of beneficiary. The notice shall specifically include an
16 explanation of the rights of a beneficiary under such coverage
17 to elect a continuation of the coverage, if the individual so
18 elects, immediately upon termination of the coverage under
19 which the individual was covered as a beneficiary.

20 (The first clause of this provision, relating to the
21 irrevocable designation of beneficiary, may be omitted at the
22 insurer's option.)

23 Sec. 2. APPLICABILITY. This Act applies to individual
24 policies of accident and sickness insurance delivered, issued
25 for delivery, continued, or renewed in this state on or after
26 January 1, 2014.

27 EXPLANATION

28 This bill requires that an individual policy of accident
29 and sickness insurance must include a provision requiring that
30 if a change of beneficiary is made, the insurer shall provide
31 written notification of the change to all beneficiaries of the
32 policy, including but not limited to termination of coverage
33 of a dependent or former dependent, at least 60 days prior to
34 the effective date of the change. The notice must specifically
35 include an explanation of the rights of a beneficiary under

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1 such coverage to elect a continuation of the coverage, if
2 the individual so elects, immediately upon termination of
3 the coverage. The bill applies to individual policies of
4 accident and sickness insurance delivered, issued for delivery,
5 continued, or renewed in this state on or after January 1,
6 2014.



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House Study Bill 44 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act providing for immunity from civil liability for
2 registered architects and professional engineers providing
3 disaster emergency assistance under specified circumstances.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 29C.20C Immunity — registered
2 architects and professional engineers.

3 An architect registered pursuant to chapter 544A or a
4 professional engineer licensed pursuant to chapter 542B who,
5 during a disaster emergency as proclaimed by the governor or
6 a major disaster as declared by the president of the United
7 States, in good faith and at the request of or with the
8 approval of a national, state, or local public official, law
9 enforcement official, public safety official, or building
10 inspection official believed by the registered architect or
11 professional engineer to be acting in an official capacity,
12 voluntarily and without compensation provides architectural,
13 engineering, structural, electrical, mechanical, or other
14 design professional services related to the disaster emergency
15 shall not be liable for civil damages for any acts or omissions
16 resulting from the services provided, unless such acts or
17 omissions constitute recklessness or willful and wanton
18 misconduct. A registered architect or professional engineer
19 who receives expense reimbursement for the performance of
20 services described in this section shall not be considered to
21 have received compensation for such services.

22 EXPLANATION

23 This bill confers immunity from civil liability for
24 registered architects and professional engineers providing
25 assistance pursuant to a disaster emergency declared by the
26 governor or a major disaster declared by the president of the
27 United States pursuant to Code chapter 29C. The bill provides
28 that when architectural, engineering, structural, electrical,
29 mechanical, or other design professional services are rendered
30 in good faith at the request of or with the approval of a
31 national, state, or local public official, law enforcement
32 official, public safety official, or building inspection
33 official believed by the registered architect or professional
34 engineer to be acting in an official capacity, and are rendered
35 voluntarily and without compensation, a registered architect

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1 or professional engineer shall not be liable for civil damages
2 for any acts or omissions resulting from the services provided,
3 unless such acts or omissions constitute recklessness or
4 willful and wanton misconduct. The bill provides that receipt
5 of expense reimbursement for services performed shall not be
6 regarded as compensation for such services.



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House Study Bill 45 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH BILL)

A BILL FOR

1 An Act relating to programs and services under the purview of
2 the department of public health.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:



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1 DIVISION I
2 ORGANIZED DELIVERY SYSTEMS
3 Section 1. Section 135H.3, subsection 2, Code 2013, is
4 amended to read as follows:
5 2. If a child is diagnosed with a biologically based mental
6 illness as defined in section 514C.22 and meets the medical
7 assistance program criteria for admission to a psychiatric
8 medical institution for children, the child shall be deemed
9 to meet the acuity criteria for medically necessary inpatient
10 benefits under a group policy, contract, or plan providing
11 for third-party payment or prepayment of health, medical, and
12 surgical coverage benefits issued by a carrier, as defined in
13 section 513B.2, ~~or by an organized delivery system authorized~~
14 ~~under 1993 Iowa Acts, ch. 158,~~ that is subject to section
15 514C.22. Such medically necessary benefits shall not be
16 excluded or denied as care that is substantially custodial in
17 nature under section 514C.22, subsection 8, paragraph "b".
18 Sec. 2. Section 505.32, subsection 2, paragraph i, Code
19 2013, is amended by striking the paragraph.
20 Sec. 3. Section 507B.4, subsection 1, Code 2013, is amended
21 to read as follows:
22 1. For purposes of subsection 3, paragraph "p", "insurer"
23 means an entity providing a plan of health insurance, health
24 care benefits, or health care services, or an entity subject
25 to the jurisdiction of the commissioner performing utilization
26 review, including an insurance company offering sickness and
27 accident plans, a health maintenance organization, ~~an organized~~
28 ~~delivery system authorized under 1993 Iowa Acts, ch. 158, and~~
29 ~~licensed by the department of public health,~~ a nonprofit health
30 service corporation, a plan established pursuant to chapter
31 509A for public employees, or any other entity providing a
32 plan of health insurance, health care benefits, or health care
33 services. However, "insurer" does not include an entity that
34 sells disability income or long-term care insurance.
35 Sec. 4. Section 507B.4A, subsection 2, paragraph a, Code

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1 2013, is amended to read as follows:

2 a. An insurer providing accident and sickness insurance
3 under chapter 509, 514, or 514A; a health maintenance
4 organization; ~~an organized delivery system authorized under~~
5 ~~1993 Iowa Acts, ch. 158, and licensed by the department of~~
6 ~~public health~~; or another entity providing health insurance or
7 health benefits subject to state insurance regulation shall
8 either accept and pay or deny a clean claim.

9 Sec. 5. Section 509.3A, subsection 11, Code 2013, is amended
10 by striking the subsection.

11 Sec. 6. Section 509.19, subsection 2, paragraph d, Code
12 2013, is amended by striking the paragraph.

13 Sec. 7. Section 513B.2, subsection 8, paragraph k, Code
14 2013, is amended by striking the paragraph.

15 Sec. 8. Section 513B.7, subsection 3, Code 2013, is amended
16 to read as follows:

17 3. A small employer carrier ~~or organized delivery system~~
18 shall make the information and documentation described in
19 subsection 1 available to the commissioner ~~or the director of~~
20 ~~public health~~ upon request. The information is not a public
21 record or otherwise subject to disclosure under chapter 22,
22 and is considered proprietary and trade secret information
23 and is not subject to disclosure by the commissioner ~~or the~~
24 ~~director of public health~~ to persons outside of the division ~~or~~
25 ~~department~~ except as agreed to by the small employer carrier ~~or~~
26 ~~organized delivery system~~ or as ordered by a court of competent
27 jurisdiction.

28 Sec. 9. Section 513B.10, subsection 1, paragraph b,
29 subparagraph (2), unnumbered paragraph 1, Code 2013, is amended
30 to read as follows:

31 Deny such coverage to such employers within the service area
32 of such plan if the carrier ~~or organized delivery system~~ has
33 demonstrated to the ~~applicable state authority~~ commissioner
34 both of the following:

35 Sec. 10. Section 513B.10, subsection 3, paragraph c, Code

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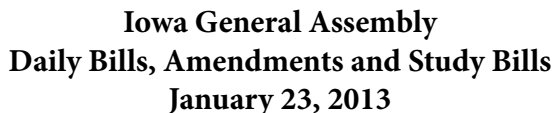
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1 2013, is amended to read as follows:

2 c. A carrier ~~or organized delivery system~~ shall waive
3 any waiting period applicable to a preexisting condition
4 exclusion or limitation period with respect to particular
5 services under health insurance coverage for the period
6 of time an individual was covered by creditable coverage,
7 provided that the creditable coverage was continuous to a
8 date not more than sixty-three days prior to the effective
9 date of the new coverage. Any period that an individual
10 is in a waiting period for any coverage under group health
11 insurance coverage, or is in an affiliation period, shall not
12 be taken into account in determining the period of continuous
13 coverage. A health maintenance organization that does not
14 use preexisting condition limitations in any of its health
15 insurance coverage may impose an affiliation period. For
16 purposes of this section, "*affiliation period*" means a period
17 of time not to exceed sixty days for new entrants and not to
18 exceed ninety days for late enrollees during which no premium
19 shall be collected and coverage issued is not effective, so
20 long as the affiliation period is applied uniformly, without
21 regard to any health status-related factors. This paragraph
22 does not preclude application of a waiting period applicable
23 to all new enrollees under the health insurance coverage,
24 provided that any ~~carrier or organized delivery system imposed~~
25 carrier-imposed waiting period is no longer than sixty days and
26 is used in lieu of a preexisting condition exclusion.

27 Sec. 11. Section 513C.3, subsection 5, Code 2013, is amended
28 to read as follows:

29 5. "*Carrier*" means any entity that provides individual
30 health benefit plans in this state. For purposes of this
31 chapter, carrier includes an insurance company, a group
32 hospital or medical service corporation, a fraternal benefit
33 society, a health maintenance organization, and any other
34 entity providing an individual plan of health insurance
35 or health benefits subject to state insurance regulation.



1 ~~"Carrier" does not include an organized delivery system.~~
2 Sec. 12. Section 513C.3, subsection 7, Code 2013, is amended
3 by striking the subsection.
4 Sec. 13. Section 513C.3, subsection 9, Code 2013, is amended
5 to read as follows:
6 9. *"Established service area"* means a geographic area,
7 as approved by the commissioner and based upon the carrier's
8 certificate of authority to transact business in this state,
9 within which the carrier is authorized to provide coverage ~~or~~
10 ~~a geographic area, as approved by the director and based upon~~
11 ~~the organized delivery system's license to transact business~~
12 ~~in this state, within which the organized delivery system is~~
13 ~~authorized to provide coverage.~~
14 Sec. 14. Section 513C.3, subsection 12, Code 2013, is
15 amended by striking the subsection.
16 Sec. 15. Section 513C.3, subsection 15, paragraph a,
17 subparagraph (3), Code 2013, is amended by striking the
18 subparagraph.
19 Sec. 16. Section 513C.7, subsection 1, paragraph b, Code
20 2013, is amended by striking the paragraph.
21 Sec. 17. Section 513C.10, subsection 10, paragraph b, Code
22 2013, is amended by striking the paragraph.
23 Sec. 18. Section 514A.3B, subsection 3, paragraph k, Code
24 2013, is amended by striking the paragraph.
25 Sec. 19. Section 514B.25A, subsection 1, Code 2013, is
26 amended to read as follows:
27 1. Upon a health maintenance organization ~~or organized~~
28 ~~delivery system~~ authorized to do business in this state and
29 ~~licensed by the director of public health~~ being declared
30 insolvent by the district court, the commissioner may levy an
31 assessment on each health maintenance organization ~~or organized~~
32 ~~delivery system~~ doing business in this state and ~~licensed by~~
33 ~~the director of public health, as applicable,~~ to pay claims
34 for uncovered expenditures for enrollees. The commissioner
35 shall not assess an amount in any one calendar year which is



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1 more than two percent of the aggregate premium written by each
2 health maintenance organization ~~or organized delivery system.~~

3 Sec. 20. Section 514C.10, subsection 2, paragraph e, Code
4 2013, is amended by striking the paragraph.

5 Sec. 21. Section 514C.11, Code 2013, is amended to read as
6 follows:

7 **514C.11 Services provided by licensed physician assistants**
8 **and licensed advanced registered nurse practitioners.**

9 Notwithstanding section 514C.6, a policy or contract
10 providing for third-party payment or prepayment of health or
11 medical expenses shall include a provision for the payment
12 of necessary medical or surgical care and treatment provided
13 by a physician assistant licensed pursuant to chapter 148C,
14 or provided by an advanced registered nurse practitioner
15 licensed pursuant to chapter 152 and performed within the
16 scope of the license of the licensed physician assistant or
17 the licensed advanced registered nurse practitioner if the
18 policy or contract would pay for the care and treatment if
19 the care and treatment were provided by a person engaged in
20 the practice of medicine and surgery or osteopathic medicine
21 and surgery under chapter 148. The policy or contract shall
22 provide that policyholders and subscribers under the policy
23 or contract may reject the coverage for services which may
24 be provided by a licensed physician assistant or licensed
25 advanced registered nurse practitioner if the coverage is
26 rejected for all providers of similar services. A policy or
27 contract subject to this section shall not impose a practice
28 or supervision restriction which is inconsistent with or more
29 restrictive than the restriction already imposed by law. This
30 section applies to services provided under a policy or contract
31 delivered, issued for delivery, continued, or renewed in this
32 state on or after July 1, 1996, and to an existing policy or
33 contract, on the policy's or contract's anniversary or renewal
34 date, or upon the expiration of the applicable collective
35 bargaining contract, if any, whichever is later. This section



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1 does not apply to policyholders or subscribers eligible for
2 coverage under Tit. XVIII of the federal Social Security Act
3 or any similar coverage under a state or federal government
4 plan. For the purposes of this section, third-party payment
5 or prepayment includes an individual or group policy of
6 accident or health insurance or individual or group hospital
7 or health care service contract issued pursuant to chapter
8 509, 514, or 514A, an individual or group health maintenance
9 organization contract issued and regulated under chapter 514B,
10 ~~an organized delivery system contract regulated under rules~~
11 ~~adopted by the director of public health,~~ or a preferred
12 provider organization contract regulated pursuant to chapter
13 514F. Nothing in this section shall be interpreted to require
14 an individual or group health maintenance organization, ~~an~~
15 ~~organized delivery system,~~ or a preferred provider organization
16 or arrangement to provide payment or prepayment for services
17 provided by a licensed physician assistant or licensed advanced
18 registered nurse practitioner unless the physician assistant's
19 supervising physician, the physician-physician assistant team,
20 the advanced registered nurse practitioner, or the advanced
21 registered nurse practitioner's collaborating physician has
22 entered into a contract or other agreement to provide services
23 with the individual or group health maintenance organization,
24 ~~the organized delivery system,~~ or the preferred provider
25 organization or arrangement.

26 Sec. 22. Section 514C.13, subsection 1, paragraph h, Code
27 2013, is amended by striking the paragraph.

28 Sec. 23. Section 514C.14, subsections 1 and 3, Code 2013,
29 are amended to read as follows:

30 1. Except as provided under subsection 2 or 3, a carrier,
31 as defined in section 513B.2, ~~an organized delivery system~~
32 ~~authorized under 1993 Iowa Acts, ch. 158,~~ or a plan established
33 pursuant to chapter 509A for public employees, which terminates
34 its contract with a participating health care provider,
35 shall continue to provide coverage under the contract to a

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1 covered person in the second or third trimester of pregnancy
2 for continued care from such health care provider. Such
3 persons may continue to receive such treatment or care through
4 postpartum care related to the child birth and delivery.
5 Payment for covered benefits and benefit levels shall be
6 according to the terms and conditions of the contract.

7 3. A carrier, ~~organized delivery system,~~ or a plan
8 established under chapter 509A, which terminates the contract
9 of a participating health care provider for cause shall not
10 be liable to pay for health care services provided by the
11 health care provider to a covered person following the date of
12 termination.

13 Sec. 24. Section 514C.15, unnumbered paragraph 1, Code
14 2013, is amended to read as follows:

15 A carrier, as defined in section 513B.2, ~~an organized~~
16 ~~delivery system authorized under 1993 Iowa Acts, ch. 158,~~
17 ~~and licensed by the director of public health,~~ or a plan
18 established pursuant to chapter 509A for public employees,
19 shall not prohibit a participating provider from, or penalize a
20 participating provider for, doing either of the following:

21 Sec. 25. Section 514C.16, subsection 1, Code 2013, is
22 amended to read as follows:

23 1. A carrier, as defined in section 513B.2, ~~an organized~~
24 ~~delivery system authorized under 1993 Iowa Acts, ch. 158,~~
25 ~~and licensed by the director of public health,~~ or a plan
26 established pursuant to chapter 509A for public employees,
27 which provides coverage for emergency services, is responsible
28 for charges for emergency services provided to a covered
29 individual, including services furnished outside any
30 contractual provider network or preferred provider network.
31 Coverage for emergency services is subject to the terms and
32 conditions of the health benefit plan or contract.

33 Sec. 26. Section 514C.17, subsections 1 and 3, Code 2013,
34 are amended to read as follows:

35 1. Except as provided under subsection 2 or 3, if a carrier,



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1 as defined in section 513B.2, ~~an organized delivery system~~
2 ~~authorized under 1993 Iowa Acts, ch. 158,~~ or a plan established
3 pursuant to chapter 509A for public employees, terminates its
4 contract with a participating health care provider, a covered
5 individual who is undergoing a specified course of treatment
6 for a terminal illness or a related condition, with the
7 recommendation of the covered individual's treating physician
8 licensed under chapter 148 may continue to receive coverage for
9 treatment received from the covered individual's physician for
10 the terminal illness or a related condition, for a period of
11 up to ninety days. Payment for covered benefits and benefit
12 levels shall be according to the terms and conditions of the
13 contract.

14 3. Notwithstanding subsections 1 and 2, a carrier,
15 ~~organized delivery system,~~ or a plan established under chapter
16 509A which terminates the contract of a participating health
17 care provider for cause shall not be required to cover health
18 care services provided by the health care provider to a covered
19 person following the date of termination.

20 Sec. 27. Section 514C.18, subsection 2, paragraph a,
21 subparagraph (6), Code 2013, is amended by striking the
22 subparagraph.

23 Sec. 28. Section 514C.19, subsection 7, paragraph a,
24 subparagraph (6), Code 2013, is amended by striking the
25 subparagraph.

26 Sec. 29. Section 514C.20, subsection 3, paragraph f, Code
27 2013, is amended by striking the paragraph.

28 Sec. 30. Section 514C.21, subsection 2, paragraph d, Code
29 2013, is amended by striking the paragraph.

30 Sec. 31. Section 514C.22, subsection 1, unnumbered
31 paragraph 1, Code 2013, is amended to read as follows:

32 Notwithstanding the uniformity of treatment requirements of
33 section 514C.6, a group policy, contract, or plan providing
34 for third-party payment or prepayment of health, medical, and
35 surgical coverage benefits issued by a carrier, as defined in



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1 section 513B.2, ~~or by an organized delivery system authorized~~
2 ~~under 1993 Iowa Acts, ch. 158,~~ shall provide coverage benefits
3 for treatment of a biologically based mental illness if either
4 of the following is satisfied:

5 Sec. 32. Section 514C.25, subsection 2, paragraph a,
6 subparagraph (5), Code 2013, is amended by striking the
7 subparagraph.

8 Sec. 33. Section 514C.26, subsection 5, paragraph a,
9 subparagraph (6), Code 2013, is amended by striking the
10 subparagraph.

11 Sec. 34. Section 514C.27, subsection 1, unnumbered
12 paragraph 1, Code 2013, is amended to read as follows:

13 Notwithstanding the uniformity of treatment requirements
14 of section 514C.6, a group policy or contract providing for
15 third-party payment or prepayment of health or medical expenses
16 issued by a carrier, as defined in section 513B.2, ~~or by an~~
17 ~~organized delivery system authorized under 1993 Iowa Acts,~~
18 ~~chapter 158,~~ shall provide coverage benefits to an insured who
19 is a veteran for treatment of mental illness and substance
20 abuse if either of the following is satisfied:

21 Sec. 35. Section 514C.29, subsection 2, paragraph e, Code
22 2013, is amended by striking the paragraph.

23 Sec. 36. Section 514E.1, subsection 6, paragraph k, Code
24 2013, is amended by striking the paragraph.

25 Sec. 37. Section 514E.1, subsection 17, Code 2013, is
26 amended by striking the subsection.

27 Sec. 38. Section 514E.2, subsection 1, paragraph a, Code
28 2013, is amended to read as follows:

29 a. All carriers ~~and all organized delivery systems licensed~~
30 ~~by the director of public health~~ providing health insurance or
31 health care services in Iowa, whether on an individual or group
32 basis, and all other insurers designated by the association's
33 board of directors and approved by the commissioner shall be
34 members of the association.

35 Sec. 39. Section 514F.5, Code 2013, is amended to read as



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1 follows:

2 **514F.5 Experimental treatment review.**

3 1. A carrier, as defined in section 513B.2, ~~an organized~~
4 ~~delivery system authorized under 1993 Iowa Acts, ch. 158,~~ or a
5 plan established pursuant to chapter 509A for public employees,
6 that limits coverage for experimental medical treatment, drugs,
7 or devices, shall develop and implement a procedure to evaluate
8 experimental medical treatments and shall submit a description
9 of the procedure to the division of insurance. The procedure
10 shall be in writing and must describe the process used to
11 determine whether the carrier, ~~organized delivery system,~~
12 or chapter 509A plan will provide coverage for new medical
13 technologies and new uses of existing technologies. The
14 procedure, at a minimum, shall require a review of information
15 from appropriate government regulatory agencies and published
16 scientific literature concerning new medical technologies, new
17 uses of existing technologies, and the use of external experts
18 in making decisions. A carrier, ~~organized delivery system,~~
19 or chapter 509A plan shall include appropriately licensed
20 or qualified professionals in the evaluation process. The
21 procedure shall provide a process for a person covered under
22 a plan or contract to request a review of a denial of coverage
23 because the proposed treatment is experimental. A review of
24 a particular treatment need not be reviewed more than once a
25 year.

26 2. A carrier, ~~organized delivery system,~~ or chapter 509A
27 plan that limits coverage for experimental treatment, drugs, or
28 devices shall clearly disclose such limitations in a contract,
29 policy, or certificate of coverage.

30 Sec. 40. Section 514I.2, subsection 10, Code 2013, is
31 amended to read as follows:

32 10. "*Participating insurer*" means any entity licensed by the
33 division of insurance of the department of commerce to provide
34 health insurance in Iowa ~~or an organized delivery system~~
35 ~~licensed by the director of public health that has contracted~~

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1 with the department to provide health insurance coverage to
2 eligible children under this chapter.

3 Sec. 41. Section 514J.102, subsection 23, Code 2013, is
4 amended to read as follows:

5 23. *"Health carrier"* means an entity subject to the
6 insurance laws and regulations of this state, or subject
7 to the jurisdiction of the commissioner, including an
8 insurance company offering sickness and accident plans, a
9 health maintenance organization, a nonprofit health service
10 corporation, a plan established pursuant to chapter 509A
11 for public employees, or any other entity providing a plan
12 of health insurance, health care benefits, or health care
13 services. ~~*"Health carrier" includes, for purposes of this*~~
14 ~~*chapter, an organized delivery system.*~~

15 Sec. 42. Section 514J.102, subsection 28, Code 2013, is
16 amended by striking the subsection.

17 Sec. 43. Section 514L.1, subsection 3, Code 2013, is amended
18 to read as follows:

19 3. *"Provider of third-party payment or prepayment of*
20 *prescription drug expenses"* or *"provider"* means a provider of an
21 individual or group policy of accident or health insurance or
22 an individual or group hospital or health care service contract
23 issued pursuant to chapter 509, 514, or 514A, a provider of a
24 plan established pursuant to chapter 509A for public employees,
25 a provider of an individual or group health maintenance
26 organization contract issued and regulated under chapter 514B,
27 ~~*a provider of an organized delivery system contract regulated*~~
28 ~~*under rules adopted by the director of public health, a*~~
29 *provider of a preferred provider contract issued pursuant to*
30 *chapter 514F, a provider of a self-insured multiple employer*
31 *welfare arrangement, and any other entity providing health*
32 *insurance or health benefits which provide for payment or*
33 *prepayment of prescription drug expenses coverage subject to*
34 *state insurance regulation.*

35 Sec. 44. Section 514L.2, subsection 1, paragraph a,

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1 unnumbered paragraph 1, Code 2013, is amended to read as
2 follows:

3 A provider of third-party payment or prepayment of
4 prescription drug expenses, including the provider's agents or
5 contractors and pharmacy benefits managers, that issues a card
6 or other technology for claims processing and an administrator
7 of the payor, excluding administrators of self-funded employer
8 sponsored health benefit plans qualified under the federal
9 Employee Retirement Income Security Act of 1974, shall issue
10 to its insureds a card or other technology containing uniform
11 prescription drug information. The commissioner of insurance
12 shall adopt rules for the uniform prescription drug information
13 card or technology applicable to those entities subject to
14 regulation by the commissioner of insurance. ~~The director of~~
15 ~~public health shall adopt rules for the uniform prescription~~
16 ~~drug information card or technology applicable to organized~~
17 ~~delivery systems.~~ The rules shall require at least both of the
18 following regarding the card or technology:

19 Sec. 45. Section 521F.2, subsection 7, Code 2013, is amended
20 to read as follows:

21 7. "*Health organization*" means a health maintenance
22 organization, limited service organization, dental or vision
23 plan, hospital, medical and dental indemnity or service
24 corporation or other managed care organization licensed under
25 chapter 514, or 514B, ~~or 1993 Iowa Acts, ch. 158,~~ or any other
26 entity engaged in the business of insurance, risk transfer,
27 or risk retention, that is subject to the jurisdiction of the
28 commissioner of insurance ~~or the director of public health.~~
29 "*Health organization*" does not include an insurance company
30 licensed to transact the business of insurance under chapter
31 508, 515, or 520, and which is otherwise subject to chapter
32 521E.

33 Sec. 46. 1993 Iowa Acts, chapter 158, section 4, is amended
34 to read as follows:

35 SEC. 4. EMERGENCY RULES. Pursuant to sections 17 and 27 ~~and~~

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1 3 of this Act, the commissioner of insurance ~~or the director of~~
2 ~~public health~~ shall adopt administrative rules under section
3 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph
4 "b", to implement the provisions of this Act and the rules
5 shall become effective immediately upon filing, unless a later
6 effective date is specified in the rules. Any rules adopted in
7 accordance with the provisions of this section shall also be
8 published as notice of intended action as provided in section
9 17A.4.

10 Sec. 47. REPEAL. Section 135.120, Code 2013, is repealed.

11 Sec. 48. REPEAL. 1993 Iowa Acts, chapter 158, section 3,
12 is repealed.

13 Sec. 49. CODE EDITOR DIRECTIVE — ORGANIZED DELIVERY
14 SYSTEMS.

15 1. Sections 505.32, 509A.6, 513B.5, 513B.6, 513B.7,
16 513B.9A, 513B.10, 513C.3, 513C.6, 513C.7, 513C.9, 513C.10,
17 514B.25A, 514C.13, 514C.15, 514C.22, 514C.27, 514E.2, 514E.7,
18 514E.9, 514E.11, 514K.1, Code 2013, are amended as follows:

19 a. By striking from the sections "organized delivery
20 system".

21 b. By striking from the sections "organized delivery
22 systems".

23 c. By striking from the sections "organized delivery
24 system's".

25 d. By striking from the sections "system".

26 2. Sections 513B.5, 513B.7, 513B.10, 513C.5, 513C.6,
27 513C.10, 514E.9, and 514K.1, Code 2013, are amended as follows:

28 a. By striking from the sections "director of public
29 health".

30 b. By striking from the sections "director".

31 DIVISION II

32 TRAUMA SYSTEM QUALITY IMPROVEMENT

33 Sec. 50. Section 147A.25, subsection 1, paragraph h, Code
34 2013, is amended to read as follows:

35 ~~h. Iowa foundation of medical care director~~ A representative

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1 of the state's Medicare quality improvement organization.

2 DIVISION III

3 REIMBURSEMENT FOR CERTAIN AUTOPSIES

4 Sec. 51. Section 331.802, subsection 2, paragraph c, Code
5 2013, is amended to read as follows:

6 c. The fee and expenses of the county medical examiner who
7 performs an autopsy or conducts an investigation of a person
8 who dies after being brought into this state for emergency
9 medical treatment by or at the direction of an out-of-state
10 law enforcement officer or public authority shall be paid by
11 the state. A claim for payment shall be filed with ~~the Iowa~~
12 ~~department of public health. If moneys are not appropriated~~
13 ~~to the Iowa department of public health for the payment of~~
14 ~~autopsies under this paragraph, claims for payment shall be~~
15 ~~forwarded to the state appeal board and, if authorized by the~~
16 ~~board, shall be paid out of moneys in the general fund of the~~
17 ~~state not otherwise appropriated.~~

18 Sec. 52. Section 331.802, subsection 4, Code 2013, is
19 amended to read as follows:

20 4. The county medical examiner shall conduct the
21 investigation in the manner required by the state medical
22 examiner and shall determine whether the public interest
23 requires an autopsy or other special investigation. However,
24 if the death occurred in the manner specified in subsection
25 3, paragraph "j", the county medical examiner shall order
26 an autopsy, claims for the expense payment of which shall
27 be reimbursed by the Iowa department of public health filed
28 with the state appeal board and, if authorized by the board,
29 shall be paid out of moneys in the general fund of the state
30 not otherwise appropriated. In determining the need for an
31 autopsy, the county medical examiner may consider the request
32 for an autopsy from a public official or private person, but
33 the state medical examiner or the county attorney of the county
34 where the death occurred may require an autopsy.

35 DIVISION IV

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1 HIV HOME TEST KITS
2 Sec. 53. REPEAL. Section 126.25, Code 2013, is repealed.
3 DIVISION V
4 TOBACCO CESSATION SERVICES — MINORS
5 Sec. 54. NEW SECTION. 142A.11 Application for services —
6 minors.
7 A minor shall have the legal capacity to act and give
8 consent to the provision of tobacco cessation services by
9 a hospital, clinic, health care provider, or other tobacco
10 cessation services provider. Consent shall not be subject to
11 later disaffirmance by reason of such minority. The consent of
12 another person, including but not limited to the consent of a
13 spouse, parent, custodian, or guardian, shall not be necessary.
14 EXPLANATION
15 This bill includes provisions that relate to programs and
16 services under the purview of the department of public health
17 (DPH). The bill is organized in divisions.
18 Division I relates to organized delivery systems that are
19 regulated by DPH. Organized delivery systems were created
20 pursuant to 1993 Iowa Acts, chapter 158. Rules adopted
21 under the provision define an organized delivery system as
22 "an organization with defined governance that is responsible
23 for delivering or arranging to deliver the full range of
24 health care services covered under a standard benefit plan
25 and is accountable to the public for the cost, quality and
26 access of its services and for the effect of its services
27 on their health." (641 IAC 201.2) An organization operating
28 as an organized delivery system is required to assume risk
29 and be subject to solvency standards. The bill eliminates
30 all references to organized delivery systems in the Code and
31 repeals the provision in the Acts authorizing the establishment
32 of organized delivery systems. The most recent application for
33 licensure was received by DPH in 1998. Since being authorized
34 in 1993, only two entities applied for licensure as organized
35 delivery systems and both of these entities have since ceased

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1 operations.

2 Division II relates to the membership of the system
3 evaluation and quality improvement committee for the trauma
4 system in the state. The bill changes the membership by
5 replacing the specific name of the one membership entity
6 with a general reference to the Medicare quality improvement
7 organization in the state.

8 Division III relates to county reimbursement for
9 investigations and autopsies that are for persons who die after
10 being brought into the state for emergency medical treatment
11 by or at the direction of an out-of-state law enforcement
12 officer or public authority; or for autopsies relating to the
13 death of a child under the age of two years if death results
14 from an unknown cause or if the circumstances surrounding the
15 death indicate that sudden infant death syndrome may be the
16 cause of death. Current law directs that claims for these
17 investigations and autopsies are to be filed by counties
18 initially with DPH, and, if moneys are not appropriated to
19 DPH for this purpose, the claims are to then be forwarded to
20 the state appeal board. Under the bill, claims would not be
21 initially filed with DPH, but would instead be filed directly
22 with the state appeal board for authorization of payment
23 from the general fund of the state from funds not otherwise
24 appropriated.

25 Division IV relates to human immunodeficiency virus
26 (HIV) home test kits. Current law prohibits a person from
27 advertising for sale, offering for sale, or selling an HIV
28 home testing kit for antibody or antigen testing, and provides
29 civil and criminal penalties as well as injunctive relief for
30 violation of the prohibition. The United States food and drug
31 administration approved the use of such kits in July 2012, and
32 the bill repeals the Code provision prohibiting the HIV home
33 test kits in the state.

34 Division V of the bill provides that a minor shall have
35 the legal capacity to act and give consent to the provision



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1 of tobacco cessation services by a hospital, clinic, health
2 care provider, or other tobacco cessation services provider.
3 Consent is not subject to later disaffirmance by reason of such
4 minority, and the consent of another person is not necessary.



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House Study Bill 46 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT ON
AGING BILL)

A BILL FOR

1 An Act relating to programs and services under the purview of
2 the department on aging.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 10A.402, subsection 5, Code 2013, is
2 amended by striking the subsection.
3 Sec. 2. Section 22.7, subsection 62, Code 2013, is amended
4 to read as follows:
5 62. Records of, information, applications, and files
6 maintained by the department on aging or office of long-term
7 care ombudsman pertaining to clients served assistance provided
8 by the prevention of elder abuse, neglect, and exploitation
9 program department or office, including information relating to
10 complaints made to or investigations by the department on aging
11 or the office of long-term care ombudsman, unless disclosure
12 is otherwise allowed under section 231.42, subsection 12,
13 paragraph "b".
14 Sec. 3. Section 135C.1, Code 2013, is amended by adding the
15 following new subsections:
16 NEW SUBSECTION. 1A. "Certified volunteer long-term care
17 ombudsman" means a volunteer long-term care ombudsman certified
18 pursuant to section 231.45.
19 NEW SUBSECTION. 13A. "Office of long-term care ombudsman"
20 means the office of long-term care ombudsman established
21 pursuant to section 231.42.
22 NEW SUBSECTION. 20A. "State long-term care ombudsman"
23 means the state long-term care ombudsman appointed pursuant to
24 section 231.42.
25 Sec. 4. Section 135C.11, subsection 2, Code 2013, is amended
26 to read as follows:
27 2. The procedure governing hearings authorized by this
28 section shall be in accordance with the rules promulgated by
29 the department. A full and complete record shall be kept
30 of all proceedings, and all testimony shall be reported but
31 need not be transcribed unless judicial review is sought
32 pursuant to section 135C.13. Copies of the transcript may be
33 obtained by an interested party upon payment of the cost of
34 preparing the copies. Witnesses may be subpoenaed by either
35 party and shall be allowed fees at a rate prescribed by the



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1 department's rules. The director may, after advising the
2 ~~resident advocate committee established pursuant to section~~
3 ~~135C.25~~ certified volunteer long-term care ombudsman, either
4 proceed in accordance with section 135C.30, or remove all
5 residents and suspend the license or licenses of any health
6 care facility, prior to a hearing, when the director finds that
7 the health or safety of residents of the health care facility
8 requires such action on an emergency basis. The fact that ~~no~~
9 ~~resident advocate committee~~ a certified volunteer long-term
10 care ombudsman has not been appointed for a particular facility
11 shall not bar the director from exercising the emergency powers
12 granted by this subsection with respect to that facility.

13 Sec. 5. Section 135C.13, Code 2013, is amended to read as
14 follows:

15 **135C.13 Judicial review.**

16 Judicial review of any action of the director may be sought
17 in accordance with the terms of the Iowa administrative
18 procedure Act, chapter 17A. Notwithstanding the terms of ~~said~~
19 ~~Act~~ chapter 17A, petitions for judicial review may be filed in
20 the district court of the county where the facility or proposed
21 facility is located, and pending final disposition of the
22 matter the status quo of the applicant or licensee shall be
23 preserved except when the director, with the advice and consent
24 of the ~~resident advocate committee established pursuant to~~
25 ~~section 135C.25~~ certified volunteer long-term care ombudsman,
26 determines that the health, safety or welfare of the residents
27 of the facility is in immediate danger, in which case the
28 director may order the immediate removal of such residents.
29 The fact that ~~no resident advocate committee~~ a certified
30 volunteer long-term care ombudsman has not been appointed for a
31 particular facility shall not bar the director from exercising
32 the emergency powers granted by this ~~subsection~~ section with
33 respect to that facility.

34 Sec. 6. Section 135C.14, subsection 8, paragraph d, Code
35 2013, is amended to read as follows:

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1 ~~d.~~ The notification of ~~resident advocate committees~~
2 certified volunteer long-term care ombudsmen by the department
3 of all complaints relating to health care facilities and the
4 involvement of the ~~resident advocate committees~~ certified
5 volunteer long-term care ombudsmen in resolution of the
6 complaints.

7 Sec. 7. Section 135C.20A, subsection 2, Code 2013, is
8 amended to read as follows:

9 2. The report card form shall be developed by the department
10 in cooperation with representatives of the department on
11 aging, the state long-term care ~~resident's advocate~~ ombudsman,
12 representatives of ~~resident advocate committees~~ certified
13 volunteer long-term care ombudsmen, representatives of
14 protection and advocacy entities, consumers, and other
15 interested persons.

16 Sec. 8. Section 135C.20B, subsection 2, paragraph c, Code
17 2013, is amended to read as follows:

18 ~~c.~~ Any information submitted by ~~care review committee~~
19 ~~members or~~ residents with regard to the quality of care of the
20 facility.

21 Sec. 9. Section 135C.37, Code 2013, is amended to read as
22 follows:

23 **135C.37 Complaints alleging violations — confidentiality.**

24 A person may request an inspection of a health care facility
25 by filing with the department, ~~resident advocate committee of~~
26 ~~the facility~~ certified volunteer long-term care ombudsman, or
27 the office of long-term care ~~resident's advocate as established~~
28 ~~pursuant to section 231.42~~ ombudsman, a complaint of an alleged
29 violation of applicable requirements of this chapter or the
30 rules adopted pursuant to this chapter. A person alleging
31 abuse or neglect of a resident with a developmental disability
32 or with mental illness may also file a complaint with the
33 protection and advocacy agency designated pursuant to section
34 135B.9 or section 135C.2. A copy of a complaint filed with ~~the~~
35 ~~resident advocate committee~~ a certified volunteer long-term



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1 care ombudsman or the office of long-term care ~~resident's~~
2 ~~advocate~~ ombudsman shall be forwarded to the department. The
3 complaint shall state in a reasonably specific manner the
4 basis of the complaint, and a statement of the nature of the
5 complaint shall be delivered to the facility involved at the
6 time of the inspection. The name of the person who files a
7 complaint with the department, ~~resident advocate committee~~
8 certified volunteer long-term care ombudsman, or the office
9 of long-term care ~~resident's advocate~~ ombudsman shall be kept
10 confidential and shall not be subject to discovery, subpoena,
11 or other means of legal compulsion for its release to a person
12 other than department employees involved in the investigation
13 of the complaint.

14 Sec. 10. Section 135C.38, subsection 1, paragraphs a and c,
15 Code 2013, are amended to read as follows:

16 a. Upon receipt of a complaint made in accordance with
17 section 135C.37, the department or ~~resident advocate committee~~
18 certified volunteer long-term care ombudsman shall make a
19 preliminary review of the complaint. Unless the department
20 or ~~committee~~ certified volunteer long-term care ombudsman
21 concludes that the complaint is intended to harass a facility
22 or a licensee or is without reasonable basis, the department or
23 ~~committee~~ certified volunteer long-term care ombudsman shall
24 make or cause to be made an on-site inspection of the health
25 care facility which is the subject of the complaint within the
26 time period determined pursuant to the following guidelines,
27 which period shall commence on the date of receipt of the
28 complaint:

29 (1) For nursing facilities, an on-site inspection shall be
30 initiated as follows:

31 (a) Within two working days for a complaint determined by
32 the department or ~~committee~~ certified volunteer long-term care
33 ombudsman to be an alleged immediate jeopardy situation.

34 (b) Within ten working days for a complaint determined by
35 the department or ~~committee~~ certified volunteer long-term care

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1 ombudsman to be an alleged high-level, nonimmediate jeopardy
2 situation.

3 (c) Within forty-five calendar days for a complaint
4 determined by the department or ~~committee~~ certified volunteer
5 long-term care ombudsman to be an alleged nonimmediate jeopardy
6 situation, other than a high-level situation.

7 (2) For all other types of health care facilities, an
8 on-site inspection shall be initiated as follows:

9 (a) Within two working days for a complaint determined by
10 the department or ~~committee~~ certified volunteer long-term care
11 ombudsman to be an alleged immediate jeopardy situation.

12 (b) Within twenty working days for a complaint determined by
13 the department or ~~committee~~ certified volunteer long-term care
14 ombudsman to be an alleged high-level, nonimmediate jeopardy
15 situation.

16 (c) Within forty-five calendar days for a complaint
17 determined by the department or ~~committee~~ certified volunteer
18 long-term care ombudsman to be an alleged nonimmediate jeopardy
19 situation, other than a high-level situation.

20 c. The department may refer to the ~~resident advocate~~
21 ~~committee~~ certified volunteer long-term care ombudsman of a
22 facility any complaint received by the department regarding
23 that facility, for initial evaluation and appropriate action by
24 the ~~committee~~ certified volunteer long-term care ombudsman.

25 Sec. 11. Section 135C.38, subsection 2, paragraphs a and d,
26 Code 2013, are amended to read as follows:

27 a. The complainant shall be promptly informed of the
28 result of any action taken by the department or ~~committee~~
29 certified volunteer long-term care ombudsman in the matter.
30 The complainant shall also be notified of the name, address,
31 and telephone number of the designated protection and advocacy
32 agency if the alleged violation involves a facility with one
33 or more residents with developmental disabilities or mental
34 illness.

35 d. A person who is dissatisfied with any aspect of the



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1 department's handling of the complaint may contact the office
2 of long-term care ~~resident's advocate, established pursuant to~~
3 ~~section 231.42~~ ombudsman, or may contact the protection and
4 advocacy agency designated pursuant to section 135C.2 if the
5 complaint relates to a resident with a developmental disability
6 or a mental illness.

7 Sec. 12. Section 135C.38, subsections 3 and 4, Code 2013,
8 are amended to read as follows:

9 3. An inspection made pursuant to a complaint filed under
10 section 135C.37 need not be limited to the matter or matters
11 included in the complaint. However, the inspection shall
12 not be a general inspection unless the complaint inspection
13 coincides with a scheduled general inspection or unless in the
14 course of the complaint investigation a violation is evident to
15 the inspector. Upon arrival at the facility to be inspected,
16 the inspector shall show identification to the person in charge
17 of the facility and state that an inspection is to be made,
18 before beginning the inspection. Upon request of either the
19 complainant or the department or ~~committee~~ certified volunteer
20 long-term care ombudsman, the complainant or the complainant's
21 representative or both may be allowed the privilege of
22 accompanying the inspector during any on-site inspection
23 made pursuant to this section. The inspector may cancel the
24 privilege at any time if the inspector determines that the
25 privacy of any resident of the facility to be inspected would
26 otherwise be violated. The protection and dignity of the
27 resident shall be given first priority by the inspector and
28 others.

29 4. If upon an inspection of a facility by its ~~resident~~
30 ~~advocate~~ ~~committee~~ certified volunteer long-term care ombudsman
31 pursuant to this section, the ~~committee~~ certified volunteer
32 long-term care ombudsman advises the department of any
33 circumstance believed to constitute a violation of this chapter
34 or of any rule adopted pursuant to it, the ~~committee~~ certified
35 volunteer long-term care ombudsman shall similarly advise the



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1 facility at the same time. If the facility's licensee or
2 administrator disagrees with the conclusion of the ~~committee~~
3 certified volunteer long-term care ombudsman regarding the
4 supposed violation, an informal conference may be requested and
5 if requested shall be arranged by the department as provided in
6 section 135C.42 before a citation is issued. If the department
7 thereafter issues a citation pursuant to the ~~committee's~~
8 certified volunteer long-term care ombudsman's finding, the
9 facility shall not be entitled to a second informal conference
10 on the same violation and the citation shall be considered
11 affirmed. The facility cited may proceed under section 135C.43
12 if it so desires.

13 Sec. 13. Section 225C.4, subsection 1, paragraph m, Code
14 2013, is amended to read as follows:

15 *m.* Provide consultation and technical assistance to
16 patients' advocates appointed pursuant to section 229.19, in
17 cooperation with the judicial branch and the ~~resident advocate~~
18 ~~committees appointed for health care facilities~~ certified
19 volunteer long-term care ombudsmen certified pursuant to
20 section ~~135C.25~~ 231.45.

21 Sec. 14. Section 227.2, subsection 2, Code 2013, is amended
22 to read as follows:

23 2. A copy of the written report prescribed by subsection 1
24 shall be furnished to the county board of supervisors, to the
25 county mental health and intellectual disability coordinating
26 board or to its advisory board if the county board of
27 supervisors constitutes ex officio the coordinating board, to
28 the administrator of the county care facility inspected and to
29 its ~~resident advocate committee~~ certified volunteer long-term
30 care ombudsman, and to the department on aging.

31 Sec. 15. Section 227.4, Code 2013, is amended to read as
32 follows:

33 **227.4 Standards for care of persons with mental illness or an**
34 **intellectual disability in county care facilities.**

35 The administrator, in cooperation with the department of



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1 inspections and appeals, shall recommend and the mental health
2 and disability services commission created in section 225C.5
3 shall adopt standards for the care of and services to persons
4 with mental illness or an intellectual disability residing in
5 county care facilities. The standards shall be enforced by
6 the department of inspections and appeals as a part of the
7 licensure inspection conducted pursuant to chapter 135C. The
8 objective of the standards is to ensure that persons with
9 mental illness or an intellectual disability who are residents
10 of county care facilities are not only adequately fed, clothed,
11 and housed, but are also offered reasonable opportunities for
12 productive work and recreational activities suited to their
13 physical and mental abilities and offering both a constructive
14 outlet for their energies and, if possible, therapeutic
15 benefit. When recommending standards under this section,
16 the administrator shall designate an advisory committee
17 representing administrators of county care facilities, county
18 mental health and developmental disabilities regional planning
19 councils, and county care facility ~~resident advocate committees~~
20 certified volunteer long-term care ombudsmen to assist in the
21 establishment of standards.

22 Sec. 16. Section 231.4, subsection 1, Code 2013, is amended
23 to read as follows:

24 1. For purposes of this chapter, unless the context
25 otherwise requires:

26 a. "*Administrative action*" means an action or decision made
27 by an owner, employee, or agent of a long-term care facility,
28 assisted living program, elder group home, or by a governmental
29 agency, which affects the service provided to residents or
30 tenants covered in this chapter.

31 b. "*Assisted living program*" means a program which provides
32 assisted living as defined pursuant to section 231C.2 and which
33 is certified under chapter 231C.

34 c. "*Certified volunteer long-term care ombudsman*" or
35 "certified volunteer" means a volunteer long-term care ombudsman



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1 certified pursuant to section 231.45.
2 ~~e.~~ d. "*Commission*" means the commission on aging.
3 ~~d.~~ e. "*Department*" means the department on aging.
4 ~~e.~~ f. "*Director*" means the director of the department on
5 aging.
6 ~~f.~~ g. "*Elder group home*" means elder group home as defined
7 in section 231B.1 which is certified under chapter 231B.
8 ~~g.~~ h. "*Equivalent support*" means in-kind contributions
9 of services, goods, volunteer support time, administrative
10 support, or other support reasonably determined by the
11 department as equivalent to a dollar amount.
12 ~~h.~~ i. "*Federal Act*" means the Older Americans Act of 1965,
13 42 U.S.C. § 3001 et seq., as amended.
14 ~~i.~~ j. "*Home and community-based services*" means a continua
15 of services available in an individual's home or community
16 which include but are not limited to case management,
17 homemaker, home health aide, personal care, adult day,
18 respite, home delivered meals, nutrition counseling, and other
19 medical and social services which contribute to the health and
20 well-being of individuals and their ability to reside in a home
21 or community-based care setting.
22 ~~j.~~ k. "*Legal representative*" means a tenant's legal
23 representative as defined in section 231B.1 or 231C.2, or a
24 guardian, conservator, or attorney in fact of a resident.
25 ~~k.~~ l. "*Long-term care facility*" means a long-term care
26 unit of a hospital or a facility licensed under section 135C.1
27 whether the facility is public or private.
28 m. "*Long-term care ombudsman*" means an advocate for
29 residents and tenants of long-term care facilities, assisted
30 living programs, and elder group homes who carries out duties
31 as specified in this chapter.
32 ~~l.~~ n. "*Older individual*" means an individual who is sixty
33 years of age or older.
34 o. "*Options counseling*" means a service involving an
35 interactive process, which may include a needs assessment,



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1 directed by the recipient individual and which may include
2 other participants of the individual's choosing and the
3 individual's legal representative, in which the individual
4 receives guidance to make informed choices about long-term
5 living services and supports in order to sustain independent
6 living.

7 ~~m. p.~~ *"Resident"* means ~~a resident or tenant of an~~
8 individual residing in a long-term care facility, assisted
9 ~~living program, or elder group home,~~ excluding facilities
10 licensed primarily to serve persons with an intellectual
11 disability or mental illness.

12 *q.* *"Tenant"* means an individual who receives assisted living
13 services through an assisted living program or an individual
14 who receives elder group home services through an elder group
15 home.

16 ~~n. r.~~ *"Unit of general purpose local government"* means the
17 governing body of a city, county, township, metropolitan area,
18 or region within the state that has a population of one hundred
19 thousand or more, that is recognized for areawide planning, and
20 that functions as a political subdivision of the state whose
21 authority is general and not limited to only one function or
22 combination of related functions, or a tribal organization.

23 Sec. 17. Section 231.23A, subsection 2, Code 2013, is
24 amended to read as follows:

25 2. The ~~senior internship~~ older American community service
26 employment program.

27 Sec. 18. Section 231.23A, subsection 7, Code 2013, is
28 amended by striking the subsection.

29 Sec. 19. Section 231.32, Code 2013, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 5. Upon designation, an area agency on
32 aging shall be considered an instrumentality of the state and
33 shall adhere to all state and federal mandates applicable to an
34 instrumentality of the state.

35 Sec. 20. Section 231.33, Code 2013, is amended by adding the

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1 following new subsection:

2 NEW SUBSECTION. 21. Comply with all applicable
3 requirements of the Iowa public employees' retirement system
4 established pursuant to chapter 97B.

5 Sec. 21. Section 231.41, Code 2013, is amended to read as
6 follows:

7 **231.41 Purpose.**

8 The purpose of this subchapter is to establish and provide
9 for the operation of the office of long-term care ~~resident's~~
10 advocate ombudsman; to carry out, through the office, a state
11 long-term care ombudsman program within the department in
12 accordance with the requirements of the federal Act~~;~~ and to
13 adopt the supporting federal regulations and guidelines for its
14 operation.

15 Sec. 22. Section 231.42, Code 2013, is amended to read as
16 follows:

17 **231.42 Office of long-term care ~~resident's advocate~~ ombudsman**
18 **~~— duties — penalties for violations.~~**

19 1. *Office established.* The office of long-term care
20 ~~resident's advocate~~ ombudsman is established within the
21 department, in accordance with ~~section 712 of~~ the federal
22 Act, ~~as codified at 42 U.S.C. § 3058g~~ and state law. The
23 office shall consist of the state long-term care ~~resident's~~
24 ~~advocate and~~ ombudsman, any local long-term care ~~resident's~~
25 ~~advocates~~ ombudsmen, and any certified volunteer long-term care
26 ombudsmen.

27 2. *State long-term care ~~resident's advocate~~ ombudsman.* The
28 director of the department shall appoint the state long-term
29 care ~~resident's advocate~~ ombudsman who shall do all of the
30 following:

31 a. Establish and implement a statewide confidential
32 uniform reporting system for receiving, analyzing, referring,
33 investigating, and resolving complaints about administrative
34 actions and the health, safety, welfare, and rights of
35 residents or tenants ~~of long-term care facilities, assisted~~

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1 ~~living programs, and elder group homes, excluding facilities~~
2 ~~licensed primarily to serve persons with an intellectual~~
3 ~~disability or mental illness.~~
4 *b.* Publicize the office of long-term care ~~resident's~~
5 ~~advocate~~ ombudsman and provide information and education to
6 consumers, the public, and other agencies about issues related
7 to long-term care in Iowa.
8 *c.* Monitor the development and implementation of federal,
9 state, and local laws, regulations, and policies that relate to
10 long-term care in Iowa.
11 *d.* Annually report to the governor and general assembly
12 on the activities of the office and make recommendations for
13 improving the health, safety, welfare, and rights of residents
14 and tenants ~~of long-term care facilities, assisted living~~
15 ~~programs, and elder group homes.~~
16 *e.* Cooperate with persons and public or private agencies
17 with regard to, and participate in, inquiries, meetings,
18 or studies that may lead to improvements in the health,
19 safety, welfare, and rights of residents and tenants ~~and the~~
20 ~~functioning of long-term care facilities, assisted living~~
21 ~~programs, and elder group homes.~~
22 *f.* ~~Recruit, train, educate, support, and monitor volunteers~~
23 ~~associated with the office.~~
24 3. *Local long-term care resident's advocates ombudsmen.* The
25 local long-term care ~~resident's advocates~~ ombudsmen established
26 pursuant to this section shall do all of the following:
27 *a.* Accept, investigate, verify, and work to resolve
28 complaints, ~~whether reported to or initiated by a long-term~~
29 ~~care resident's advocate,~~ relating to any action or inaction
30 that may adversely affect the health, safety, welfare, or
31 rights of residents or tenants ~~of a long-term care facility,~~
32 ~~assisted living program, or elder group home.~~
33 *b.* Provide information about long-term care, the rights of
34 residents and tenants, payment sources for care, and selection
35 of a long-term care facility, assisted living program, or elder

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1 group home to providers, consumers, family members, volunteers,
2 and the public.

3 *c.* Make referrals to appropriate licensing, certifying, and
4 enforcement agencies to assure appropriate investigation of
5 abuse complaints and corrective actions.

6 *d.* Assist in the ~~recruitment~~, training, and education,
7 ~~support, and monitoring~~ of certified volunteers associated with
8 the office of the long-term care ~~resident's advocate~~ ombudsman.

9 *e.* Make noncomplaint-related visits to long-term care
10 facilities, assisted living programs, and elder group homes
11 to observe daily routines, meals, and activities, and work to
12 resolve complaints if any are identified during these visits.

13 4. *Referrals of abuse, neglect, or exploitation.*

14 *a.* If abuse, neglect, or exploitation of a resident
15 or tenant ~~of a long-term care facility, assisted living~~
16 ~~program, or elder group home~~ is suspected, the state or a
17 local long-term care ~~resident's advocate~~ ombudsman shall, with
18 the permission of the resident or tenant as applicable under
19 federal law, make an immediate referral to the department of
20 inspections and appeals, ~~or the department of human services as~~
21 ~~applicable, and to, the department on aging, or the appropriate~~
22 law enforcement agency, as applicable. The state or a local
23 long-term care ~~resident's advocate~~ ombudsman shall cooperate,
24 if requested, with the department of inspections and appeals,
25 department of human services, department on aging, or any law
26 enforcement agency pursuant to any investigation of such abuse,
27 neglect, or exploitation.

28 *b.* If the department of inspections and appeals responds
29 to a complaint referred by the state or a local long-term
30 care ~~resident's advocate~~ ombudsman against a long-term care
31 facility, assisted living program, elder group home, or
32 an employee of such entity, copies of related inspection
33 reports, plans of correction, and notice of any citations and
34 sanctions levied against the facility, program, or home shall
35 be forwarded to the office of the long-term care ~~resident's~~

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1 advocate ombudsman.

2 5. Access to long-term care facility, assisted living
3 program, or elder group home and residents and tenants. The
4 state or a local long-term care ~~resident's advocate~~ ombudsman
5 or a ~~trained~~ certified volunteer may enter any long-term care
6 facility, assisted living program, or elder group home at any
7 time with or without prior notice or complaint and shall be
8 granted access to residents and tenants at all times for the
9 purpose of carrying out the duties specified in this section.
10 As used in this section, "access" means the right to do all of
11 the following:

12 a. Enter any long-term care facility, assisted living
13 program, or elder group home and provide identification.

14 b. Seek consent from the resident, tenant, or legal
15 representative to communicate privately and without restriction
16 with any resident, ~~or~~ tenant, or legal representative.

17 c. Communicate privately and without restriction with
18 any resident, tenant, or legal representative, ~~or other~~
19 ~~representative who consents to communication.~~

20 d. Review the ~~clinical~~ medical, social, or other records of
21 a resident or tenant.

22 e. Observe all resident or tenant areas of a long-term care
23 facility, assisted living program, or housing establishment
24 elder group home except the living area of any resident or
25 tenant who protests the observation.

26 6. Access to medical and ~~personal~~ social records.

27 a. The state or a local long-term care ~~resident's advocate~~
28 ombudsman shall have access to the medical and ~~personal~~ social
29 records of ~~an individual who is~~ a resident or tenant ~~of a~~
30 ~~long-term care facility, assisted living program, or elder~~
31 ~~group home retained by the facility, program, or home,~~ if any
32 of the following applies:

33 (1) The state or local long-term care ombudsman or certified
34 volunteer long-term care ombudsman has the permission of the
35 resident or tenant, or the legal representative of the resident

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1 or tenant.
2 (2) The resident or tenant is unable to consent to the
3 access and has no legal representative.
4 (3) Access to the records is necessary to investigate a
5 complaint if all of the following apply:
6 (a) A legal representative of the resident or tenant refuses
7 to give the permission.
8 (b) The state or local long-term care ombudsman or a
9 certified volunteer long-term care ombudsman has reasonable
10 cause to believe that the legal representative is not acting in
11 the best interest of the resident or tenant.
12 (c) The local long-term care ombudsman or a certified
13 volunteer long-term care ombudsman obtains the approval of the
14 state long-term care ombudsman.
15 b. Records may be reproduced by the state or a local
16 long-term care ~~resident's advocate~~ ombudsman.
17 c. Upon request of the state or a local long-term care
18 ~~resident's advocate~~ ombudsman, a long-term care facility,
19 assisted living program, or elder group home shall provide the
20 name, address, and telephone number of the legal representative
21 or next of kin of any resident or tenant.
22 d. A long-term care facility, assisted living program, or
23 elder group home or personnel of such a facility, program, or
24 home who discloses records in compliance with this section and
25 the procedures adopted pursuant to this section shall not be
26 liable for such disclosure.
27 7. Access to administrative records.
28 a. Pursuant to the federal Act, the state or a local
29 long-term care ombudsman or a certified volunteer shall have
30 access to the administrative records, policies, and documents
31 of the long-term care facility, assisted living program, or
32 elder group home, which are accessible to residents, tenants,
33 or the general public.
34 b. Pursuant to the federal Act, the state or a local
35 long-term care ombudsman or a certified volunteer shall have



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1 access to, and upon request, copies of, all licensing and
2 certification records maintained by the state with respect to
3 a long-term care facility, assisted living program, or elder
4 group home.

5 ~~7.~~ 8. *Interference prohibited — penalties.*

6 *a.* An officer, owner, director, or employee of a long-term
7 care facility, assisted living program, or elder group home who
8 intentionally prevents, interferes with, or attempts to impede
9 the work of the state or a local long-term care ~~resident's~~
10 advocate ombudsman or a certified volunteer is subject to a
11 penalty imposed by the director of not more than one thousand
12 five hundred dollars for each violation. If the director
13 imposes a penalty for a violation under this paragraph,
14 no other state agency shall impose a penalty for the same
15 interference violation. Any moneys collected pursuant to this
16 subsection shall be deposited in the general fund of the state.

17 *b.* The office of the long-term care ~~resident's advocate~~
18 ombudsman shall adopt rules specifying procedures for notice
19 and appeal of penalties imposed pursuant to this subsection.

20 *c.* The director, in consultation with the office of the
21 long-term care ~~resident's advocate~~ ombudsman, shall notify
22 the county attorney of the county in which the long-term care
23 facility, assisted living program, or elder group home is
24 located, or the attorney general, of any violation of this
25 subsection.

26 ~~8.~~ 9. *Retaliation prohibited — penalties.* An officer,
27 owner, director, or employee of a long-term care facility,
28 assisted living program, or elder group home shall not
29 retaliate against any person for having filed a complaint with,
30 or provided information to, the state or a local long-term
31 care ~~resident's advocate~~ ombudsman or a certified volunteer.
32 A person who retaliates or discriminates in violation of this
33 subsection is guilty of a simple misdemeanor.

34 ~~9.~~ 10. *Change in operations.* A long-term care facility,
35 assisted living program, or elder group home shall inform the

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1 office of the long-term care ~~resident's advocate~~ ombudsman
2 in writing at least thirty days prior to any change in
3 operations, programs, services, licensure, or certification
4 that affects residents or tenants, including but not limited
5 to the intention to close, decertify, or change ownership. In
6 an emergency situation, or when a long-term care facility,
7 assisted living program, or elder group home is evacuated, the
8 department of inspections and appeals shall notify the office
9 of the ~~state long-term care resident's advocate~~ ombudsman.

10 ~~10.~~ 11. Immunity. The state or a local long-term care
11 ~~resident's advocate~~ ombudsman, certified volunteer, or any
12 representative of the office participating in the good faith
13 performance of their official duties shall have immunity from
14 any civil or criminal liability that otherwise might result by
15 reason of taking, investigating, or pursuing a complaint under
16 this section.

17 ~~11.~~ 12. Confidentiality.

18 a. Information relating to any complaint made to or
19 investigation by the state or a local long-term care ~~resident's~~
20 ~~advocate that discloses the identity of a complainant,~~
21 ~~resident, or tenant, or ombudsman or certified volunteer,~~
22 information related to a resident's or tenant's personal social
23 or medical records, or files maintained by the state long-term
24 care ombudsman program shall remain confidential ~~except as~~
25 ~~follows:~~ and shall be disclosed only at the discretion of the
26 state long-term care ombudsman.

27 ~~a. If permission is granted by the director in consultation~~
28 ~~with the state long-term care resident's advocate.~~

29 ~~b. If disclosure is authorized in writing by the complainant~~
30 ~~and the resident, tenant, or the individual's guardian or legal~~
31 ~~representative.~~

32 ~~c. If disclosure is necessary for the provision of services~~
33 ~~to a resident or tenant, or the resident or tenant is unable to~~
34 ~~express written or oral consent.~~

35 ~~d. If ordered by a court.~~

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1 b. Information identifying a complainant, resident, or
2 tenant shall remain confidential and shall not be disclosed
3 unless any of the following applies:
4 (1) The complainant, resident, tenant, or a legal
5 representative consents to the disclosure and the consent is
6 given in writing.
7 (2) The complainant, resident, or tenant gives consent
8 orally and the consent is documented contemporaneously in a
9 writing made by the state long-term care ombudsman or a local
10 long-term care ombudsman.
11 (3) The disclosure is required by a court order.
12 c. The department shall adopt rules pursuant to chapter 17A
13 to administer this subsection.
14 ~~12.~~ 13. Posting of state long-term care ~~resident's advocate~~
15 ombudsman information. Every long-term care facility, assisted
16 living program, and elder group home shall post information
17 in a prominent location that includes the name, address, and
18 telephone number, and a brief description of the services
19 provided by the office of the long-term care ~~resident's~~
20 advocate ombudsman. The information posted shall be approved
21 or provided by the office of the long-term care ~~resident's~~
22 advocate ombudsman.
23 Sec. 23. Section 231.45, Code 2013, is amended to read as
24 follows:
25 **231.45 Certified volunteer long-term care ~~resident's advocate~~**
26 ombudsman program.
27 1. The department shall establish a certified volunteer
28 long-term care ~~resident's advocate~~ ombudsman program in
29 accordance with the federal Act to provide assistance to the
30 state and local long-term care ~~resident's advocates~~ ombudsmen.
31 2. The department shall develop and implement a
32 certification process for volunteer long-term care ~~resident's~~
33 advocates ombudsmen including but not limited to an application
34 process, provision for background checks, classroom or on-site
35 training, orientation, and continuing education.

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1 3. ~~The Unless specifically excluded, the provisions of~~
2 section 231.42 relating to local long-term care ~~resident's~~
3 ~~advocates~~ ombudsmen shall apply to certified volunteer
4 long-term care ~~resident's advocates~~ ombudsmen.

5 4. The department shall adopt rules pursuant to chapter 17A
6 to administer this section.

7 Sec. 24. Section 231.51, subsections 1, 3, and 4, Code 2013,
8 are amended to read as follows:

9 1. The department shall direct and administer the older
10 American community service employment program as authorized
11 by the federal Act in coordination with the department of
12 workforce development ~~and the economic development authority~~.

13 3. Funds appropriated to the department from the United
14 States department of labor shall be distributed to ~~local~~
15 ~~projects~~ subgrantees in accordance with federal requirements.

16 4. The department shall require such uniform reporting
17 and financial accounting by ~~area agencies on aging and local~~
18 ~~projects~~ subgrantees as may be necessary to fulfill the
19 purposes of this section.

20 Sec. 25. Section 231.53, Code 2013, is amended to read as
21 follows:

22 **231.53 Coordination with Workforce Investment Act.**

23 The ~~senior internship~~ older American community service
24 employment program shall be coordinated with the federal
25 Workforce Investment Act administered by the department of
26 workforce development.

27 Sec. 26. Section 231.56A, Code 2013, is amended to read as
28 follows:

29 **231.56A Prevention of elder abuse, neglect, and exploitation**
30 **program.**

31 1. The department shall administer the prevention of elder
32 abuse, neglect, and exploitation program in accordance with the
33 requirements of the federal Act. The purpose of the program
34 is to carry out activities for intervention in, investigation
35 of, and response to elder abuse, neglect, and exploitation

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1 including financial exploitation.

2 ~~2. The target population of the program shall be any~~
3 ~~older individual residing in Iowa who is at risk of or who~~
4 ~~is experiencing abuse, neglect, or exploitation including~~
5 ~~financial exploitation.~~

6 ~~3. The contractor implementing the program shall identify~~
7 ~~emergency shelter and support services, state funding,~~
8 ~~outcomes, reporting requirements, and approved community~~
9 ~~resources from which services may be obtained.~~

10 ~~4. The contractor shall implement the program and shall~~
11 ~~coordinate the provider network through the use of referrals or~~
12 ~~other engagement of community resources to provide services to~~
13 ~~older individuals.~~

14 ~~5.~~ 2. The department shall adopt rules to implement this
15 section.

16 Sec. 27. Section 231.64, Code 2013, is amended to read as
17 follows:

18 **231.64 Aging and disability resource center program.**

19 1. The aging and disability resource center ~~program~~ shall
20 be administered by the department consistent with the federal
21 Act. The department shall designate participating entities
22 to establish a coordinated system for providing all of the
23 following:

24 a. Comprehensive information, referral, and assistance
25 regarding the full range of available public and private
26 long-term care programs, options, service providers, and
27 resources within a community, including information on the
28 availability of integrated long-term care.

29 b. ~~Personal~~ Options counseling to assist individuals in
30 assessing their existing or anticipated long-term care needs
31 and developing and implementing a plan for long-term care
32 designed to meet their specific needs and circumstances.
33 The plan for long-term care may include support with
34 person-centered care transitions to assist consumers and family
35 caregivers with transitions between home and care settings.

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1 c. Consumer access to the range of publicly-supported
2 long-term care programs for which consumers may be eligible, by
3 serving as a convenient point of entry for such programs.

4 2. The aging and disability resource center ~~program~~
5 shall assist older individuals, persons with disabilities
6 age eighteen or older, family caregivers, and people who
7 inquire about or request assistance on behalf of members of
8 these groups, as they seek long-term care living services and
9 community supports.

10 Sec. 28. Section 231B.1, subsection 10, Code 2013, is
11 amended to read as follows:

12 10. "*Tenant advocate*" means the office of the long-term care
13 ~~resident's advocate~~ ombudsman established in section 231.42.

14 Sec. 29. Section 231C.2, subsection 15, Code 2013, is
15 amended to read as follows:

16 15. "*Tenant advocate*" means the office of long-term care
17 ~~resident's advocate~~ ombudsman established in section 231.42.

18 Sec. 30. Section 235B.6, subsection 2, paragraph e,
19 subparagraph (10), Code 2013, is amended to read as follows:

20 (10) The state or a local long-term care ~~resident's advocate~~
21 ombudsman if the victim resides in a ~~long-term care facility~~
22 or the alleged perpetrator is an employee of a long-term care
23 facility as defined in section 231.4.

24 Sec. 31. Section 669.14, subsection 12, Code 2013, is
25 amended to read as follows:

26 12. Any claim based upon the actions of a ~~resident advocate~~
27 ~~committee member~~ certified volunteer long-term care ombudsman
28 in the performance of duty if the action is undertaken and
29 carried out in good faith.

30 Sec. 32. REPEAL. Sections 16.182, 135C.25, 231.44, 231.52,
31 and 231B.19, Code 2013, are repealed.

32 Sec. 33. REPEAL. Chapter 249H, Code 2013, is repealed.

33 EXPLANATION

34 This bill includes provisions relating to programs and
35 services under the purview of the department on aging (IDA).

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1 The bill eliminates a provision relating to the duties
2 of the administrator of the investigations division of the
3 department of inspections and appeals. The provision directs
4 the administrator to coordinate investigations relative to the
5 operations of IDA. The language potentially conflicts with the
6 autonomy of the office of state long-term care ombudsman.

7 The bill amends the language relating to confidential
8 records under the purview of IDA. The bill replaces the
9 protection of records of IDA pertaining to only one program,
10 to instead protect documents maintained by IDA or the office
11 of long-term care ombudsman pertaining to assistance provided
12 by IDA or the office, including information pertaining to
13 complaints made or investigations by IDA or the office unless
14 otherwise exempt from confidentiality protections.

15 The bill changes the term "resident advocate" to ombudsman
16 throughout the Code, removes references to "care review
17 committee", which no longer exists, and changes references in
18 the Code to conform with changes made with the enactment of
19 Code section 231.45 by the 2012 general assembly by replacing
20 "resident advocate committee" with "certified volunteer
21 long-term care ombudsman" throughout the Code.

22 The bill includes new definitions for "long-term care
23 ombudsman", "options counseling", and "tenant" in Code chapter
24 231 (department on aging — older Iowans); includes a provision
25 establishing that area agencies on aging are instrumentalities
26 of the state based on a number of opinions of the attorney
27 general (1980 Op. Att'y Gen 51; 1980 Op. Att'y Gen 317; 1984
28 Op. Att'y Gen 140; 1988 Op. Att'y Gen 1; and 1993 Op. Att'y
29 Gen 71); and includes a conforming provision to the provision
30 in Code chapter 97B (Iowa public employees' retirement system
31 (IPERS)) in Code chapter 231 including area agencies on aging
32 in the definition of "employer" under IPERS.

33 The bill amends provisions relating to confidentiality
34 regarding complaints and relating to access of the state or
35 local long-term care ombudsman and certified volunteers to

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1 the locations of long-term care facilities, assisted living
2 programs, and elder group homes as well as to medical, social,
3 and administrative records of residents and tenants of these
4 entities to carry out their duties, consistent with the federal
5 Older Americans Act.

6 The bill deletes a reference to the economic development
7 authority, which is no longer involved in the community service
8 employment program; changes the terminology relating to the
9 senior internship program, which has been replaced by the older
10 American community service employment program; and aligns
11 provisions relating to the prevention of elder abuse, neglect,
12 and exploitation in accordance with the federal Older Americans
13 Act.

14 The bill repeals Code chapter 249H, relating to the senior
15 living program, and Code section 16.182, establishing the
16 senior living revolving loan program fund. The senior living
17 trust fund was depleted at the end of FY 2011.



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Senate File 19 - Introduced

SENATE FILE 19

BY ZAUN, CHELGREN, JOHNSON,
SEGEBART, CHAPMAN, BEHN,
BOETTGER, FEENSTRA,
SINCLAIR, ROZENBOOM, and
GREINER

A BILL FOR

1 An Act prohibiting the use of automated traffic law enforcement
2 systems and requiring the removal of existing systems, and
3 including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 19

1 Section 1. Section 321.1, Code 2013, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 95. "*Automated traffic law enforcement*
4 *system*" means a device with one or more sensors working in
5 conjunction with one of the following:

6 *a.* An official traffic-control signal, to produce recorded
7 images of motor vehicles entering an intersection against a red
8 signal light.

9 *b.* A speed measuring device, to produce recorded images of
10 motor vehicles traveling at a prohibited rate of speed.

11 *c.* A railroad grade crossing signal light, as described in
12 section 321.342, to produce images of vehicles violating the
13 signal light.

14 *d.* Any official traffic-control device, if failure to comply
15 with the official traffic-control device constitutes a moving
16 violation under this chapter.

17 Sec. 2. NEW SECTION. 321.5A **Automated traffic law**
18 **enforcement systems prohibited.**

19 The department or a local authority shall not place or cause
20 to be placed on or adjacent to a highway, or maintain or employ
21 the use of, an automated traffic law enforcement system for
22 the enforcement of any provision of this chapter or any local
23 ordinance relating to motor vehicles.

24 Sec. 3. **REMOVAL OF AUTOMATED TRAFFIC LAW ENFORCEMENT**
25 **SYSTEMS — VALIDITY OF PRIOR NOTICES AND CITATIONS.** On or
26 before July 1, 2013, a local authority using an automated
27 traffic law enforcement system shall discontinue using the
28 system and remove the system equipment. Effective July 1,
29 2013, all local ordinances authorizing the use of an automated
30 traffic law enforcement system are void. However, notices
31 of violations mailed or citations issued pursuant to such an
32 ordinance prior to July 1, 2013, shall not be invalidated by
33 the enactment of this Act and shall be processed according to
34 the provisions of the law under which they were authorized.

35 Sec. 4. **EFFECTIVE UPON ENACTMENT.** The section of this Act

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1 relating to the removal of automated traffic law enforcement
2 systems and the validity of prior notices and citations, being
3 deemed of immediate importance, takes effect upon enactment.

4 EXPLANATION

5 This bill imposes a statewide prohibition on the use of
6 automated traffic law enforcement systems and provides for
7 the termination of existing automated traffic law enforcement
8 programs.

9 The bill defines "automated traffic law enforcement system"
10 as a device with one or more sensors working in conjunction
11 with an official traffic-control signal, a speed measuring
12 device, a railroad grade crossing signal light, or any other
13 official traffic-control device if failure to comply with the
14 traffic-control device would constitute a moving violation.
15 An automated traffic law enforcement system records images of
16 vehicles violating an associated traffic control signal or
17 device or violating a speed limit. The definition includes
18 within its scope devices known as "red light cameras" and
19 "speed cameras".

20 The bill prohibits the department of transportation and
21 local authorities from placing an automated traffic law
22 enforcement system on or adjacent to a highway or maintaining
23 or employing the use of such a system for the enforcement of
24 state or local motor vehicle laws, effective July 1, 2013.

25 Local authorities that are currently using automated traffic
26 law enforcement systems must discontinue their use and remove
27 related equipment on or before July 1, 2013. On that date, all
28 local ordinances authorizing the use of automated traffic law
29 enforcement systems are void. However, notices of violations
30 that were mailed or citations which were issued prior to
31 July 1, 2013, are not invalidated by the bill and remain
32 enforceable. These provisions of the bill take effect upon
33 enactment.



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Senate File 20 - Introduced

SENATE FILE 20

BY ZAUN, SEGEBART, CHAPMAN,
CHELGREN, WHITVER,
BOETTGER, FEENSTRA,
KAPUCIAN, SINCLAIR, and
ROZENBOOM

A BILL FOR

1 An Act providing for the distribution of fines collected under
2 a city or county automated traffic law enforcement program
3 to local nonprofit organizations.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 331.307, Code 2013, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 14. *a.* Notwithstanding any other provision
4 of law, civil fines collected by a county from the use of an
5 automated traffic law enforcement system shall be allocated as
6 follows:

7 (1) The amount necessary to satisfy contractual obligations
8 of the county relating to the use of automated traffic law
9 enforcement systems shall be retained by the county for that
10 purpose.

11 (2) Moneys in excess of the amount necessary for the
12 purpose specified in subparagraph (1) shall be deposited in
13 the automated traffic law enforcement program fund established
14 pursuant to section 331.440A.

15 *b.* For purposes of this subsection, "*automated traffic law*
16 *enforcement system*" means a device with one or more sensors
17 working in conjunction with a traffic control signal or device
18 or a speed-measuring device to produce recorded images of
19 vehicles being operated in violation of traffic or speed laws.

20 Sec. 2. Section 331.401, subsection 1, Code 2013, is amended
21 by adding the following new paragraph:

22 NEW PARAGRAPH. *t.* Comply with section 331.440A, if the
23 county has established an automated traffic law enforcement
24 program fund.

25 Sec. 3. NEW SECTION. 331.440A **Automated traffic**
26 **law enforcement program fund — distribution to nonprofit**
27 **organizations.**

28 1. A county that uses an automated traffic law enforcement
29 system shall establish an automated traffic law enforcement
30 program fund which shall be separate from the county's general
31 fund. Interest earned on revenues deposited in the fund
32 pursuant to section 331.307, subsection 14, shall remain in the
33 fund and be used for the purposes specified in this section.
34 Moneys in the fund are not subject to transfer to any other
35 funds established by a county unless such transfer is for a

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1 purpose specified in this section.

2 2. The board of supervisors of a county with an automated
3 traffic law enforcement program fund shall appoint a committee
4 of five residents of the county who are not elected officials
5 to coordinate the distribution of moneys in the fund to
6 nonprofit organizations with a presence in the county. The
7 committee shall review and evaluate applications from nonprofit
8 organizations and select applications for approval. The
9 committee shall submit applications approved by the committee,
10 specifying the amount of funding approved, along with written
11 comments from the committee, to the board for disbursement of
12 funds.

13 3. For purposes of this section, "*nonprofit organization*"
14 means a nonprofit entity which is exempt from federal income
15 taxation pursuant to section 501(c)(3) of the Internal Revenue
16 Code and which is funded in whole or in part by public funds.

17 Sec. 4. Section 364.3, subsection 2, Code 2013, is amended
18 to read as follows:

19 2. For a violation of an ordinance, a city shall not
20 provide a penalty in excess of the maximum fine and term of
21 imprisonment for a simple misdemeanor under section 903.1,
22 subsection 1, paragraph "a". Am Except as otherwise provided
23 in this section, an amount equal to ten percent of all
24 finances collected by cities shall be deposited in the account
25 established in section 602.8108. However, one
26 a. One hundred percent of all fines collected by a city
27 pursuant to section 321.236, subsection 1, shall be retained
28 by the city.

29 b. Civil fines collected by a city from the use of an
30 automated traffic law enforcement system shall be allocated as
31 follows:

32 (1) The amount necessary to satisfy contractual obligations
33 of the city relating to the use of automated traffic law
34 enforcement systems shall be retained by the city for that
35 purpose.



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1 (2) Moneys in excess of the amount necessary for the purpose
2 specified in subparagraph (1) shall be deposited in the city's
3 automated traffic law enforcement program fund established
4 pursuant to section 384.3B.

5 (3) For purposes of this subsection, "automated traffic law
6 enforcement system" means a device with one or more sensors
7 working in conjunction with a traffic control signal or device
8 or a speed-measuring device to produce recorded images of
9 vehicles being operated in violation of traffic or speed laws.

10 c. The criminal penalty surcharge required by section 911.1
11 shall be added to a city fine and is not a part of the city's
12 penalty.

13 Sec. 5. NEW SECTION. 384.3B Automated traffic law
14 enforcement program fund — distribution to nonprofit
15 organizations.

16 1. A city that uses an automated traffic law enforcement
17 system shall establish an automated traffic law enforcement
18 program fund which shall be separate from the city's general
19 fund. Interest earned on revenues deposited in the fund
20 pursuant to section 364.3, subsection 2, shall remain in the
21 fund and be used for the purposes specified in this section.
22 Moneys in the fund are not subject to transfer to any other
23 funds established by a city unless such transfer is for a
24 purpose specified in this section.

25 2. The city council of a city with an automated traffic
26 law enforcement program fund shall appoint a committee of
27 five residents of the city who are not elected officials to
28 coordinate the distribution of moneys in the fund to nonprofit
29 organizations with a presence in the city. The committee shall
30 review and evaluate applications from nonprofit organizations
31 and select applications for approval. The committee shall
32 submit applications approved by the committee, specifying the
33 amount of funding approved, along with written comments from
34 the committee, to the city council for disbursement of funds.

35 3. For purposes of this section, "*nonprofit organization*"

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1 means a nonprofit entity which is exempt from federal income
2 taxation pursuant to section 501(c)(3) of the Internal Revenue
3 Code and which is funded in whole or in part by public funds.

4 EXPLANATION

5 This bill requires each city or county that uses automated
6 traffic law enforcement systems to establish an automated
7 traffic law enforcement program fund separate from the city's
8 or county's general fund. The bill directs that, from the
9 civil fines collected by a city or county from the use of
10 automated traffic law enforcement systems, the amount necessary
11 to satisfy the contractual obligations relating to the use of
12 the systems shall be retained by the city or county. Moneys
13 in excess of that amount are to be deposited in the city's or
14 county's automated traffic law enforcement program fund.

15 A city or county with an automated traffic law enforcement
16 program fund shall appoint a committee of five residents of the
17 city or county who are not elected officials to coordinate the
18 distribution of moneys in the fund to nonprofit organizations
19 with a presence in the city or county. The city council or
20 county board of supervisors is responsible for disbursement
21 of moneys to successful applicants chosen by the citizen
22 committee.



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Senate File 21 - Introduced

SENATE FILE 21
BY ZAUN

A BILL FOR

1 An Act relating to the use of automated traffic law enforcement
2 systems.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 21

1 Section 1. Section 321.1, Code 2013, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 95. "*Automated traffic law enforcement*
4 *system*" means a device with one or more sensors working in
5 conjunction with one of the following:

6 *a.* An official traffic-control signal, to produce recorded
7 images of motor vehicles entering an intersection against a red
8 signal light.

9 *b.* A speed measuring device, to produce recorded images of
10 motor vehicles traveling at a prohibited rate of speed.

11 *c.* A railroad grade crossing signal light, as described in
12 section 321.342, to produce images of vehicles violating the
13 signal light.

14 *d.* Any official traffic-control device, if failure to comply
15 with the official traffic-control device constitutes a moving
16 violation under this chapter.

17 Sec. 2. NEW SECTION. 321.5A **Automated traffic law**
18 **enforcement systems.**

19 The state shall not use an automated traffic law enforcement
20 system. A local authority shall not use an automated traffic
21 law enforcement system except as provided in this section.

22 1. A local authority may by ordinance authorize the use of
23 automated traffic law enforcement systems to detect violations
24 of posted speed limits or official traffic-control signals
25 which constitute municipal or county infractions.

26 2. A local authority shall provide signage, in conformance
27 with the uniform system adopted pursuant to section 321.252,
28 giving notice of the use of an automated traffic law
29 enforcement system on the approach to each location where an
30 automated traffic law enforcement system is in use as follows:

31 *a.* A sign shall be posted on each road on the approach to
32 the next traffic-control signal where an automated traffic law
33 enforcement system is in use.

34 *b.* A sign shall be posted on the approach to the next speed
35 limit zone on a road where an automated traffic law enforcement

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1 system is being used for speed limit enforcement.

2 *c.* A temporary sign shall be positioned or posted on the
3 approach to each location where a mobile automated traffic law
4 enforcement system is being used for speed limit enforcement.

5 *d.* A temporary or permanent sign giving notice of the use of
6 an automated traffic law enforcement system for the enforcement
7 of speed limits shall be positioned or posted at a distance
8 in advance of the automated traffic law enforcement system
9 which, in relation to the applicable speed limit, would provide
10 adequate notice to a motor vehicle operator traveling at the
11 speed limit before entering the range of the automated traffic
12 law enforcement system.

13 3. Recorded images produced by an automated traffic law
14 enforcement system evidencing a violation of a posted speed
15 limit or an official traffic-control signal shall be reviewed
16 by a peace officer of the local law enforcement agency to
17 affirm that a violation occurred and the identity of the motor
18 vehicle involved in the violation. If following the officer's
19 review, a notice of a fine or citation is issued to the owner
20 of the motor vehicle involved in the violation, the following
21 requirements apply:

22 *a.* An affidavit bearing the written or electronic signature
23 of the peace officer shall be included on the notice or
24 citation.

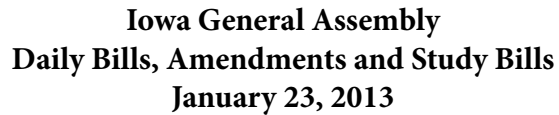
25 *b.* The notice or citation shall contain a statement, in bold
26 type, regarding the process for appealing the fine.

27 *c.* The notice or citation shall be sent by ordinary mail to
28 the owner of the motor vehicle involved not more than thirty
29 days following the incident giving rise to the notice of a fine
30 or citation, as evidenced by the postmark.

31 4. A local authority shall not charge the owner of a motor
32 vehicle administrative costs in addition to any civil penalty
33 imposed for a violation detected by an automated traffic
34 law enforcement system. Civil penalties imposed for such
35 violations shall not exceed the following amounts:

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1 a. For a violation of an official traffic-control signal,
2 fifty dollars.

3 b. For a violation of a speed limit, the amount of the
4 fine established in section 805.8A for an equivalent speeding
5 violation charged as a scheduled violation, subject to the
6 limitation established in section 331.302, subsection 2, for
7 violation of a county ordinance, or the limitation established
8 in section 364.3, subsection 2, for violation of a city
9 ordinance.

20 Sec. 3. EXISTING AUTOMATED TRAFFIC LAW ENFORCEMENT SYSTEMS
21 — VALIDITY OF PRIOR NOTICES AND CITATIONS. Notices mailed
22 or citations issued for violations committed prior to the
23 effective date of this Act, pursuant to a local ordinance
24 authorizing the use of an automated traffic law enforcement
25 system, shall not be invalidated by the enactment of this Act
26 and shall be processed according to the provisions of the law
27 under which they were authorized.

29 This bill authorizes and restricts the use of automated
30 traffic law enforcement systems by state and local highway
31 authorities.

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1 railroad grade crossing, a speed measuring device, or any other
2 official traffic control device if failure to comply with the
3 device constitutes a moving violation. An automated traffic
4 law enforcement system records images of vehicles violating
5 an associated traffic-control signal or a speed limit. The
6 definition includes within its scope devices known as "red
7 light cameras" and "speed cameras".

8 The bill prohibits the use of automated traffic law
9 enforcement systems by the department of transportation, but
10 authorizes their use by local authorities in conjunction with
11 official traffic-control signals or for the enforcement of
12 speed limits pursuant to municipal or county ordinance.

13 A local authority is required to post signs giving notice
14 of the use of an automated traffic law enforcement system
15 on the approach to each location where an automated traffic
16 law enforcement system is in use. The signage must be in
17 conformance with the uniform system adopted by the state. The
18 bill specifies that signs giving notice of an automated traffic
19 law enforcement system being used for speed limit enforcement
20 must be positioned or posted at a distance in advance of the
21 automated traffic law enforcement system which would provide
22 adequate notice to a motor vehicle operator traveling at the
23 speed limit before entering the range of the automated traffic
24 law enforcement system.

25 The bill requires that recorded images produced by an
26 automated traffic law enforcement system showing a violation of
27 a posted speed limit or an official traffic control signal must
28 be reviewed by a peace officer of the local law enforcement
29 agency to affirm that the violation occurred and the identity
30 of the motor vehicle involved in the violation. A notice of
31 a fine or citation issued to the owner of the motor vehicle
32 must include an affidavit bearing the written or electronic
33 signature of the peace officer and a statement, in bold type,
34 regarding the process for appealing the fine. The notice or
35 citation must be mailed to the owner within 30 days following

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1 the occurrence of the violation, as evidenced by the postmark.

2 The bill imposes limits on the fine amounts that may
3 be charged by a local authority for automated traffic law
4 enforcement violations and prohibits a local authority from
5 charging administrative costs in addition to a fine. The
6 fine for a violation of an official traffic-control device is
7 limited to \$50. For a speeding violation, the fine cannot
8 exceed the amount of the fine set out in Code section 805.8A
9 for an equivalent speeding violation charged as a scheduled
10 violation. Speeding fines are also subject to the limitation
11 under current law, which restricts penalties for violation of
12 a local ordinance to not more than the penalty for a simple
13 misdemeanor, currently capped at \$625.

14 The bill requires a local authority using an automated
15 traffic law enforcement system to file an annual report with
16 the department of public safety comparing the type and rate
17 of accidents that occurred at each automated traffic law
18 enforcement system location for the two previous years. The
19 report is to be kept on file by the local authority for use by
20 its governing body in evaluating public safety improvements
21 under the automated traffic law enforcement program.

22 The bill provides that notices mailed or citations issued of
23 violations committed prior to the effective date of the bill,
24 pursuant to a local ordinance, are not invalidated by the bill
25 and remain enforceable.



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Senate File 22 - Introduced

SENATE FILE 22
BY SODDERS

A BILL FOR

1 An Act specifying procedures applicable to claims asserting
2 stray electric current or voltage.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1732XS (3) 85
rn/nh



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1 Section 1. NEW SECTION. 476D.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Board*" means the utilities board within the utilities
5 division of the department of commerce.

6 2. "*Dairy producer*" means any person or entity that owns or
7 operates a dairy farm or that owns cows that do or are intended
8 to produce milk.

9 3. "*Utility*" means a public utility as defined in section
10 476.1 or, for purposes of this chapter, any other person owning
11 or operating more than one thousand five hundred miles of
12 transmission lines and associated facilities in this state.

13 Sec. 2. NEW SECTION. 476D.2 Utility inspections — stray
14 current or voltage.

15 1. A dairy producer in this state that claims that its
16 dairy cows are being affected by stray current or voltage shall
17 provide written notice to a utility providing electric service
18 to the dairy producer and may provide written notice to the
19 board. The notice shall include a nonbinding statement as to
20 why the dairy producer claims its dairy cows are being affected
21 by electrical energy attributable to the utility.

22 2. a. Within fourteen business days after receipt of a
23 notice alleging stray current or voltage by a utility pursuant
24 to subsection 1, the utility shall take or arrange for the
25 taking of measurements to identify the existence and magnitude
26 of the stray current or voltage, if any. A dairy producer
27 providing notice of the claim shall permit entry onto the
28 dairy farm at dates and times mutually agreed upon by the
29 dairy producer and the utility. The utility shall perform no
30 other service or inspection on the dairy farm beyond taking
31 measurements of stray current or voltage, except the utility
32 may advise the dairy producer as to recommended on-farm
33 remedial action and may perform such on-farm remedial action
34 with the permission of the dairy producer. The utility or its
35 representative shall abide by the dairy farm's biosecurity

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1 protocols or, if none, generally accepted biosecurity protocols
2 in the industry, prior to entry onto the dairy farm. The
3 utility shall be provided advance notice of any biosecurity
4 protocols adopted by the dairy producer.

5 **b.** A dairy producer may include with the notice provided
6 pursuant to subsection 1, or in a subsequent notice, a written
7 request for the board to take or arrange for the taking of
8 separate and independent measurements to identify the existence
9 and magnitude of stray current or voltage, if any. Such a
10 request may also be made by the utility. Measurements by
11 the board shall be taken by a representative of the board
12 directly, or by a neutral third-party expert selected by the
13 board for such purposes. A dairy producer providing notice
14 of the claim shall permit entry onto the dairy farm at dates
15 and times mutually agreed upon by the dairy producer and
16 the board, a representative of the board directly, or by a
17 neutral third-party expert selected by the board for such
18 purposes. The board or a selected third-party expert shall
19 perform no other service or inspection on the dairy farm beyond
20 taking measurements of stray current or voltage, except the
21 board or third-party expert may advise the dairy producer as
22 to recommended on-farm remedial action. The board or the
23 third-party expert shall abide by the dairy farm's biosecurity
24 protocols or, if none, by generally accepted biosecurity
25 protocols in the industry, prior to entry onto the dairy farm.
26 The board shall be provided advance notice of any biosecurity
27 protocols adopted by the dairy producer. The board shall
28 subsequently prepare or cause to be prepared a determination of
29 source document which shall be made available to both the dairy
30 producer and the utility.

31 **Sec. 3. NEW SECTION. 476D.3 Rules.**

32 The board shall by rule establish procedures and protocols
33 to be used for the measurement of stray current or voltage.
34 The board shall review the rules from time to time, or upon
35 petition to the board, to ensure that the procedures and

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1 protocols continue to be scientifically and technologically
2 accurate and a reliable means of detecting stray current or
3 voltage.

4 EXPLANATION

5 This bill specifies procedures which apply to claims
6 asserting stray electric current or voltage affecting dairy
7 cows.

8 The bill provides that a dairy producer in Iowa claiming that
9 its dairy cows are being affected by stray current or voltage
10 shall provide written notice to a utility providing electric
11 service to the dairy producer and may provide written notice to
12 the utilities board of the utilities division of the department
13 of commerce. The notice shall include a nonbinding statement
14 as to why the dairy producer claims its dairy cows are being
15 affected by electrical energy attributable to the utility. The
16 bill states that within 14 business days after receipt of the
17 notice, the utility shall take or arrange for the taking of
18 measurements to identify the existence and magnitude of the
19 stray current or voltage, if any. The bill provides that the
20 dairy producer shall permit entry onto the dairy farm at dates
21 and times mutually agreed upon by the dairy producer and the
22 utility. The utility is required to perform no other service
23 or inspection on the dairy farm beyond taking measurements of
24 stray current or voltage, except the utility may advise the
25 dairy producer as to recommended on-farm remedial action and
26 may perform such on-farm remedial action with the permission
27 of the dairy producer. The bill provides that the utility or
28 its representative shall abide by the dairy farm's biosecurity
29 protocols or, if none, generally accepted biosecurity protocols
30 in the industry, prior to entry onto the dairy farm, and that
31 the utility shall be provided advance notice of any biosecurity
32 protocols adopted by the dairy producer.

33 The bill further provides that the dairy producer may
34 include either as part of the notice or in a separate
35 notification a written request for the board to take or arrange

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1 for the taking of separate and independent measurements to
2 identify the existence and magnitude of stray current or
3 voltage, if any, and that such a request may also be made
4 by the utility. Measurements by the board shall be taken
5 by a representative of the board directly, or by a neutral
6 third-party expert selected by the board for such purposes.
7 The bill specifies that a dairy producer shall permit entry
8 onto the dairy farm at dates and times mutually agreed upon
9 by the dairy producer and the board, a representative of the
10 board directly, or by a neutral third-party expert selected
11 by the board for such purposes. The same restrictions shall
12 apply to measurements taken by the board or a third-party
13 expert with regard to performing no other service or inspection
14 beyond taking measurements of stray current or voltage except
15 providing advice as to recommended on-farm remedial action,
16 and biosecurity protocols. The bill directs the board to
17 subsequently prepare or cause to be prepared a determination of
18 source document which shall be made available to both the dairy
19 producer and the utility.

20 The bill provides that the board shall by rule establish
21 procedures and protocols to be used for the measurement of
22 stray current or voltage, which the board shall periodically
23 review, either of its own accord or upon petition to the board,
24 to ensure that the procedures and protocols continue to be
25 scientifically and technologically accurate and a reliable
26 means of detecting stray current or voltage.



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Senate File 23 - Introduced

SENATE FILE 23
BY BOLKCOM

A BILL FOR

1 An Act removing the exemption for farm houses from county
2 building codes and county zoning regulations.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1383XS (2) 85
aw/sc



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S.F. 23

1 Section 1. Section 331.304, subsection 3, paragraph b, Code
2 2013, is amended to read as follows:

3 b. A county building code shall not apply to ~~farm houses~~
4 ~~or other~~ farm buildings which, except dwellings, that are
5 primarily adapted for use for agricultural purposes, while so
6 used or under construction for that use.

7 Sec. 2. Section 335.2, Code 2013, is amended to read as
8 follows:

9 **335.2 Farms exempt.**

10 Except to the extent required to implement section 335.27,
11 ~~no~~ an ordinance adopted under this chapter applies shall not
12 apply to land, ~~farm houses,~~ farm barns, farm outbuildings or
13 other buildings or structures which, except dwellings, that are
14 primarily adapted, by reason of nature and area, for use for
15 agricultural purposes, while so used. However, the ordinances
16 may apply to any structure, building, dam, obstruction,
17 deposit, or excavation in or on the flood plains of any river
18 or stream.

19 EXPLANATION

20 Current law provides for farm house exemptions from county
21 building codes and county zoning regulations. The bill removes
22 these exemptions for farm houses while maintaining similar
23 exemptions for other agricultural structures.

24 Pursuant to Code section 414.23, the changes in the bill to
25 the county zoning exemption for farm houses apply to a city
26 extending city zoning regulations to the unincorporated area
27 of a county up to two miles beyond the limits of such city, as
28 authorized by statute.



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Senate File 24 - Introduced

SENATE FILE 24
BY BOLKCOM

A BILL FOR

1 An Act relating to Iowa national pollutant discharge
2 elimination system program signage and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1430XS (2) 85
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S.F. 24

1 Section 1. NEW SECTION. 455B.189 Discharge point signs —
2 penalty — exceptions.

3 1. A person paying an annual permit fee for an Iowa national
4 pollutant discharge elimination system program permit listed
5 under section 455B.197, subsection 3, shall post or erect a
6 conspicuous and legible sign of not less than eighteen inches
7 by twenty-four inches at all points of discharge to surface
8 waters. The location of the sign on the property of the permit
9 holder shall be as close in proximity to the point of discharge
10 into the surface water as is reasonably possible while ensuring
11 the maximum visibility from the surface water and shore.

12 2. At a minimum, the sign shall include all of the
13 following:

14 a. A statement containing the words "Iowa state permitted
15 discharge point permit no. (insert permit number). For
16 information on this discharge you can contact: (insert contact
17 information)".

18 b. The Iowa national pollutant discharge elimination system
19 program permit number issued by the department.

20 c. The name and telephone number of the permit holder which
21 shall be the business office repository of the permit holder.

22 d. The internet address of an internet site sponsored by the
23 department where more information may be obtained.

24 3. A permit holder shall periodically and reasonably
25 maintain the sign to ensure that the sign is still legible,
26 visible, and factually correct. A good faith documented effort
27 by the permit holder to maintain the sign is an affirmative
28 defense in any action relating to the unauthorized absence of
29 a sign.

30 4. A person violating a provision of this section is subject
31 to a civil penalty of not more than one hundred dollars per day
32 for each day such violation continues.

33 5. The department may grant a waiver of the requirements of
34 this section if the department determines a security concern
35 may exist due to the posting of a sign under this section.

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1 6. This section shall not apply to a permit holder that is
2 an open feedlot operation as defined in section 459A.102 or an
3 animal feeding operation as defined in section 459.102.

4 Sec. 2. Section 455B.191, subsection 2, Code 2013, is
5 amended to read as follows:

6 2. Any person who violates any provision of part 1 of
7 division III of this chapter or any permit, rule, standard,
8 or order issued under part 1 of division III of this chapter
9 shall be subject to a civil penalty not to exceed five thousand
10 dollars for each day of such violation. This section shall not
11 apply to violations of section 455B.189.

12 EXPLANATION

13 This bill relates to Iowa national pollutant discharge
14 elimination system program signage.

15 The bill requires a person paying a permit fee for an
16 Iowa national pollutant discharge elimination system program
17 individual permit for nonstorm water to post or erect a
18 conspicuous and legible sign at all points of discharge to
19 surface waters. The bill provides size, content, and location
20 requirements for the signage.

21 The bill requires that a permit holder shall periodically
22 and reasonably maintain the sign to ensure that the sign is
23 still legible, visible, and factually correct. The bill
24 provides that a good faith documented effort by the permit
25 holder to maintain the sign is an affirmative defense in any
26 action relating to the unauthorized absence of a sign. The
27 bill allows the department to grant waivers. The bill provides
28 that the signage requirements do not apply to permit holders
29 that are an open feedlot operation or an animal feeding
30 operation.

31 The bill provides for a civil penalty of not more than \$100
32 per day for each day a violation continues. The penalty in the
33 bill is in place of the general penalty provisions provided in
34 Code section 455B.191.



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Senate File 25 - Introduced

SENATE FILE 25
BY BOLKCOM

A BILL FOR

1 An Act relating to city development and approval of voluntary
2 annexation or voluntary severance of territory.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1382XS (3) 85
md/sc



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1 Section 1. Section 368.7, subsection 1, Code 2013, is
2 amended by adding the following new paragraph:
3 NEW PARAGRAPH. *g.* An annexation for which a board of
4 supervisors has stated its opposition by resolution under
5 paragraph "b", subparagraph (2), is not complete without
6 approval by four-fifths of the members of the city development
7 board after a hearing for all affected property owners and the
8 county.

9 Sec. 2. Section 368.7, subsections 2, 3, and 4, Code 2013,
10 are amended to read as follows:

11 2. An application for annexation of territory not within
12 an urbanized area of a city other than the city to which the
13 annexation is directed must be approved by resolution of the
14 council which receives the application. The city council shall
15 mail a copy of the application by certified mail to the board
16 of supervisors of each county which contains a portion of the
17 territory at least fourteen business days prior to any action
18 taken by the city council on the application. The council
19 shall also publish notice of the application in an official
20 county newspaper in each county which contains a portion of
21 the territory at least fourteen days prior to any action taken
22 by the council on the application. Upon receiving approval of
23 the council and approval of the city development board under
24 subsection 1, paragraph "g", if applicable, the city clerk shall
25 file a copy of the resolution, map, and legal description of
26 the territory involved with the secretary of state, the county
27 board of supervisors of each county which contains a portion
28 of the territory, each affected public utility, and the state
29 department of transportation. The city clerk shall also record
30 a copy of the legal description, map, and resolution with the
31 county recorder of each county which contains a portion of
32 the territory. The secretary of state shall not accept and
33 acknowledge a copy of a legal description, map, and resolution
34 of annexation which would create an island. The annexation is
35 completed upon acknowledgment by the secretary of state that

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1 the secretary of state has received the legal description, map,
2 and resolution.

3 3. An application for annexation of territory within an
4 urbanized area of a city other than the city to which the
5 annexation is directed must be approved both by resolution of
6 the council which receives the application and by the city
7 development board, including approval under subsection 1,
8 paragraph "g", if applicable. The board shall not approve an
9 application which creates an island. Notice of the application
10 shall be mailed by certified mail, by the city to which the
11 annexation is directed, at least fourteen business days prior
12 to any action by the city council on the application to the
13 council of each city whose boundary adjoins the territory or is
14 within two miles of the territory, to the board of supervisors
15 of each county which contains a portion of the territory, each
16 affected public utility, and to the regional planning authority
17 of the territory. Notice of the application shall be published
18 in an official county newspaper in each county which contains
19 a portion of the territory at least ten business days prior
20 to any action by the city council on the application. ~~The An~~
21 annexation approved by the council and the board as provided
22 in this subsection is completed when the board has filed and
23 recorded copies of applicable portions of the proceedings as
24 required by section 368.20, subsection 1, paragraph "b".

25 4. a. If one or more applications for a voluntary
26 annexation and one or more petitions for an involuntary
27 annexation or incorporation for a common territory are
28 submitted to the board within thirty days of the date the first
29 application or petition was submitted to the board, the board
30 shall approve the application for voluntary annexation, if the
31 application meets the applicable requirements of this chapter,
32 unless the board determines by a preponderance of the evidence
33 that the application was filed in bad faith, or that the
34 application as filed is contrary to the best interests of the
35 citizens of the urbanized area, or that the applicant cannot



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1 within a reasonable period of time meet its obligation to
2 provide services to the territory to be annexed sufficient to
3 meet the needs of the territory. Subsection 1, paragraph "g",
4 applies to board approval of voluntary annexations under this
5 subsection. In consideration of the requests, the board may
6 appoint a committee in the manner provided in section 368.14 to
7 seek additional information from the applicant for voluntary
8 annexation as necessary, including the information required
9 of petitioners pursuant to section 368.11. The board, or the
10 committee, if applicable, shall hold a public hearing on the
11 application for voluntary annexation in the manner provided for
12 involuntary petitions in section 368.15. The decision of the
13 board under this subsection shall be made within ninety days
14 of receipt of the application by the board. The failure of the
15 board to approve an application under this paragraph shall be
16 deemed final agency action subject to judicial review.

17 **b.** If an application for voluntary annexation is not
18 approved pursuant to this section, the board shall cause the
19 conversion of the application to a petition pursuant to section
20 368.13 and shall proceed under section 368.14A. The conversion
21 of an application to a petition shall not prejudice the status
22 of the applicant. Judicial review of a board decision under
23 this subsection may be requested by an aggrieved party.

24 Sec. 3. Section 368.8, Code 2013, is amended to read as
25 follows:

26 **368.8 Voluntary severing of territory.**

27 Any territory may be severed upon the unanimous consent of
28 all owners of the territory, and approval by resolution of the
29 council of the city in which the territory is located, and
30 either approval by resolution of each board of supervisors
31 in which the territory is located or approval by the city
32 development board. When considering a voluntary severance
33 under this section, the city development board shall take into
34 account each adopted city or county comprehensive plan that
35 is or will be applicable to the territory, any applicable

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1 zoning ordinance for the territory, the stated reasons for the
2 voluntary severance, and all other factors deemed relevant by
3 the board. The council shall provide in the resolution for the
4 equitable distribution of assets and equitable distribution
5 and assumption of liabilities of the territory as between
6 the city and the severed territory. ~~The~~ If the severance is
7 approved, as provided in this section, the city clerk shall
8 file a copy of the resolution, map, and a legal description of
9 the territory involved with the county board of supervisors,
10 secretary of state, and state department of transportation.
11 The city clerk shall also record a copy of the map and
12 resolution with the county recorder. The secretary of state
13 shall not accept and acknowledge a copy of a map and resolution
14 of severance which would create an island. The severance is
15 completed upon acknowledgment by the secretary of state that
16 the secretary of state has received the map and resolution.

17 EXPLANATION

18 This bill relates to the approval of a voluntary annexation
19 of territory and the approval of a voluntary severance of
20 territory.

21 The bill requires approval by four-fifths of the city
22 development board, after a hearing for all affected property
23 owners and the county, of a voluntary annexation under Code
24 section 368.7 for which a board of supervisors has stated its
25 opposition by resolution. Current Code section 368.7(1)(b)(2)
26 requires the annexing city only to forward a copy of the board
27 of supervisors' resolution to the city development board.

28 Current Code section 368.8 provides that any territory may
29 be severed upon the unanimous consent of all owners of the
30 territory and approval by resolution of the council of the
31 city in which the territory is located. The bill adds to such
32 consent and approval a requirement that a voluntary severance
33 must also be approved by a resolution of each board of
34 supervisors in which the territory is located or be approved by
35 the city development board. The bill also provides that when

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1 considering a voluntary severance under this section, the city
2 development board must take into account each adopted city or
3 county comprehensive plan that is or will be applicable to the
4 territory, any applicable zoning ordinance for the territory,
5 the stated reasons for the voluntary severance, and all other
6 factors deemed relevant by the board.



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Senate File 26 - Introduced

SENATE FILE 26
BY ZAUN

A BILL FOR

1 An Act establishing a multiple sclerosis support fund and
2 authorizing lottery games to benefit persons with multiple
3 sclerosis.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1741XS (1) 85
ec/nh



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S.F. 26

1 Section 1. NEW SECTION. 99G.9B Limited series of lottery
2 games to benefit persons with multiple sclerosis.

3 The chief executive officer, in consultation with the board,
4 shall develop and conduct one additional instant scratch and
5 one additional pull-tab lottery game annually to provide moneys
6 for the benefit of persons with multiple sclerosis. The
7 moneys received from the sale of tickets for each lottery game
8 shall be deposited in a special account in the lottery fund.
9 Notwithstanding section 99G.39, after payment of the prizes,
10 the remaining moneys shall be transferred to the multiple
11 sclerosis support fund established pursuant to section 135.23.

12 Sec. 2. NEW SECTION. 135.23 Multiple sclerosis support
13 fund.

14 1. A multiple sclerosis support fund is created in the
15 state treasury under the control of the department. The fund
16 consists of all moneys transferred or appropriated to the fund.

17 2. Moneys in the fund are appropriated to the department
18 to be used for the purpose of providing financial assistance
19 to organizations in this state that support and assist persons
20 with multiple sclerosis or provide funding for research
21 relating to multiple sclerosis.

22 3. Moneys in the multiple sclerosis support fund are not
23 subject to section 8.33. Notwithstanding section 12C.7,
24 subsection 2, interest or earnings on moneys in the multiple
25 sclerosis support fund shall be credited to the fund.

26 EXPLANATION

27 This bill provides that the chief executive officer of the
28 lottery authority shall develop and conduct one additional
29 instant scratch and one additional pull-tab lottery game
30 annually for the benefit of persons with multiple sclerosis.
31 Moneys received from the games, less prizes, shall be
32 transferred to the multiple sclerosis support fund.

33 The bill establishes the multiple sclerosis support fund
34 under the control of the department of public health and
35 provides that moneys in the fund shall be used for providing

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1 financial assistance to organizations in this state that
2 support and assist persons with multiple sclerosis or provide
3 funding for research relating to multiple sclerosis.



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Senate File 27 - Introduced

SENATE FILE 27
BY RAGAN and BEALL

A BILL FOR

1 An Act relating to requirements for the use of headlights, and
2 providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1351XS (3) 85
dea/nh



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S.F. 27

1 Section 1. Section 321.384, Code 2013, is amended to read
2 as follows:

3 **321.384 When lighted lamps required.**

4 1. ~~Every~~ A motor vehicle ~~upon~~ operated on a highway within
5 ~~the state, at any time from~~ shall display lighted headlamps
6 as provided in section 321.415 during the following times,
7 subject to exceptions under this chapter with respect to parked
8 vehicles:

9 a. From sunset to sunrise, and at such other times when
10 conditions such as fog, snow, sleet, or rain provide.

11 b. Whenever atmospheric conditions require the use of
12 windshield wipers.

13 c. During any period of rain, drizzle, sleet, hail, snow,
14 blowing snow, freezing rain, or ground-level fog.

15 d. Whenever, due to insufficient lighting to render clearly
16 discernible or unfavorable atmospheric conditions, persons
17 and vehicles on the highway are not clearly discernible at a
18 distance of five hundred one thousand feet ahead, shall display
19 lighted headlamps as provided in section 321.415, subject to
20 exceptions with respect to parked vehicles as hereinafter
21 stated.

22 2. ~~Whenever~~ A requirement ~~is hereinafter declared as to in~~
23 this chapter regarding the distance from which certain lamps
24 and devices shall render objects visible or within which such
25 lamps or devices shall be visible, ~~said provisions~~ shall apply
26 during the times stated in subsection 1 ~~of this section~~ upon
27 a straight level unlighted highway under normal atmospheric
28 conditions unless a different time or condition is expressly
29 stated.

30 Sec. 2. Section 321.482A, unnumbered paragraph 1, Code
31 2013, is amended to read as follows:

32 Notwithstanding section 321.482, a person who is convicted
33 of operating a motor vehicle in violation of section 321.178,
34 subsection 2, paragraph "a", subparagraph (2), section
35 321.180B, subsection 6, section 321.194, subsection 1,

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1 paragraph "c", section 321.256, ~~section~~ or 321.257, section
2 321.275, subsection 4, section 321.276, 321.297, 321.298,
3 321.299, 321.302, 321.303, 321.304, 321.305, 321.306, 321.307,
4 or 321.308, section 321.309, subsection 2, ~~or~~ section 321.311,
5 321.319, 321.320, 321.321, 321.322, 321.323, 321.324, 321.324A,
6 321.327, 321.329, or 321.333, ~~or~~ section 321.372, subsection
7 3, or section 321.384 causing serious injury to or the death
8 of another person may be subject to the following penalties in
9 addition to the penalty provided for a scheduled violation in
10 section 805.8A or any other penalty provided by law:

11 EXPLANATION

12 This bill amends Code section 321.384 to require the
13 operator of a motor vehicle to display lighted headlamps from
14 sunset to sunrise; whenever atmospheric conditions require
15 the use of windshield wipers; during any period of rain,
16 drizzle, sleet, hail, snow, blowing snow, freezing rain, or
17 ground-level fog; or whenever, due to insufficient lighting or
18 unfavorable atmospheric conditions, persons and vehicles on
19 the highway are not clearly discernible at a distance of 1,000
20 feet. Currently, the use of headlamps is required from sunset
21 to sunrise and at all other times when conditions such as fog,
22 snow, sleet, or rain provide insufficient lighting to clearly
23 see 500 feet ahead.

24 The penalty that currently applies to a violation of
25 requirements for headlight use applies to the new requirements
26 under the bill. A violation is a simple misdemeanor,
27 punishable by a scheduled fine of \$30. The bill adds a
28 violation of Code section 321.384 to the list of traffic
29 offenses for which additional penalties may be imposed for a
30 violation causing serious injury to or death of another person.
31 If the violation causes a serious personal injury, a court
32 could impose an additional fine of \$500 or suspend the person's
33 driver's license for not more than 90 days, or both. If the
34 violation causes a death, a court could impose an additional
35 fine of \$1,000 or suspend the person's driver's license for not

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1 more than 180 days, or both.

2 The following Code sections contain provisions which are
3 linked to the times when headlamps are required under Code
4 section 321.384 and are therefore affected indirectly by the
5 bill:

6 Code section 321.235A, which requires the use of a headlight
7 and a rear reflector on an electric personal assistive mobility
8 device.

9 Code section 321.392, which requires the use of certain
10 lighting devices and reflectors on motor trucks.

11 Code section 321.394, which requires a red light to be
12 displayed on projecting loads.

13 Code section 321.395, which requires lighting on vehicles
14 stopped on an unlighted roadway or shoulder.

15 Code sections 321.397, 321.398, and 321.418, which describe
16 lighting requirements for bicycles, animal drawn vehicles, and
17 slow-moving vehicles.

18 Code section 321.405, which requires self-illumination of
19 mechanical signal devices.

20 Code sections 321.415 and 321.419, which provide
21 specifications for headlamps.



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Senate File 28 - Introduced

SENATE FILE 28
BY COURTNEY

A BILL FOR

1 An Act concerning persons voluntarily excluded from gambling
2 facilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1127XS (3) 85
ec/nh



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1 Section 1. Section 99D.7, subsection 23, Code 2013, is
2 amended to read as follows:
3 23. To require licensees to establish a process to allow
4 a person to be voluntarily excluded ~~for life~~ from a racetrack
5 enclosure and all other licensed facilities under this chapter
6 and chapter 99F as provided in this subsection. The process
7 shall provide that an initial request by a person to be
8 voluntarily excluded shall be for a period of five years or
9 life and a subsequent request following the five-year period
10 shall be for a period of five years or life. A request by
11 a person to be voluntarily excluded following the second
12 five-year period shall be for life. The process established
13 shall also require that a licensee disseminate information
14 regarding persons voluntarily excluded to all licensees under
15 this chapter and chapter 99F. The state and any licensee under
16 this chapter or chapter 99F shall not be liable to any person
17 for any claim which may arise from this process. In addition
18 to any other penalty provided by law, any money or thing of
19 value that has been obtained by, or is owed to, a voluntarily
20 excluded person by a licensee as a result of wagers made by the
21 person after the person has been voluntarily excluded shall not
22 be paid to the person but shall be credited to the general fund
23 of the state.

24 Sec. 2. Section 99F.4, subsection 22, Code 2013, is amended
25 to read as follows:

26 22. To require licensees to establish a process to allow a
27 person to be voluntarily excluded ~~for life~~ from an excursion
28 gambling boat and all other licensed facilities under this
29 chapter and chapter 99D as provided in this subsection. The
30 process shall provide that an initial request by a person to
31 be voluntarily excluded shall be for a period of five years
32 or life and a subsequent request following the five-year
33 period shall be for a period of five years or life. A request
34 by a person to be voluntarily excluded following the second
35 five-year period shall be for life. The process established

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1 shall also require that a licensee disseminate information
2 regarding persons voluntarily excluded to all licensees under
3 this chapter and chapter 99D. The state and any licensee under
4 this chapter or chapter 99D shall not be liable to any person
5 for any claim which may arise from this process. In addition
6 to any other penalty provided by law, any money or thing of
7 value that has been obtained by, or is owed to, a voluntarily
8 excluded person by a licensee as a result of wagers made by the
9 person after the person has been voluntarily excluded shall not
10 be paid to the person but shall be credited to the general fund
11 of the state.

12 Sec. 3. GAMBLING SELF-EXCLUSION — REAPPLICATION.

13 1. A person who has been voluntarily excluded for life
14 from a racetrack enclosure, an excursion gambling boat, and
15 all other licensed facilities under Code chapters 99D and 99F
16 pursuant to the process established in Code sections 99D.7 and
17 99F.4 prior to the effective date of this Act may reapply to
18 the licensed facilities to revoke the exclusion, pursuant to a
19 process established by the licensed facilities in accordance
20 with the requirements of the racing and gaming commission. A
21 person may reapply to revoke the voluntary exclusion only if
22 the person has been voluntarily excluded for a period of at
23 least five years.

24 2. Following a revocation of a voluntary exclusion
25 as provided by this section, a subsequent request to be
26 voluntarily excluded shall be as provided for a subsequent
27 request pursuant to the process described in Code sections
28 99D.7 and 99F.4, as amended by this Act.

29 EXPLANATION

30 This bill concerns the process by which a person can be
31 voluntarily excluded from a racetrack enclosure under Code
32 chapter 99D and from an excursion gambling boat and all other
33 licensed facilities under Code chapter 99F.

34 The bill provides that an initial request to be voluntarily
35 excluded shall be for a period of five years or for life and a

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1 subsequent request by that person after the five-year period
2 shall be for five years or life. The bill further provides
3 that a request following the second five-year exclusion
4 period shall be for life. Under current law, a request to be
5 voluntarily excluded is for life.

6 The bill also provides that for a person who has been
7 voluntarily excluded for life from a gambling facility prior to
8 the effective date of the bill, the person may reapply to have
9 the exclusion revoked if the person has been excluded for at
10 least five years. The bill provides that if a person revokes
11 their exclusion, a subsequent request for exclusion shall be as
12 otherwise provided in the bill.



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Senate Joint Resolution 1 - Introduced

SENATE JOINT RESOLUTION 1
BY CHELGREN, BOETTGER,
BEHN, ERNST, BREITBACH,
CHAPMAN, ZUMBACH, BERTRAND,
SEGEBART, ZAUN, SINCLAIR,
ANDERSON, HOUSER, JOHNSON,
ROZENBOOM, SORENSON,
KAPUCIAN, GUTH, GREINER,
and WHITVER

SENATE JOINT RESOLUTION

1 A Joint Resolution proposing an amendment to the Constitution
2 of the State of Iowa relating to the composition of the
3 militia of this state.
4 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1659XS (2) 85
aw/rj



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S.J.R. 1

1 Section 1. The following amendment to the Constitution of
2 the State of Iowa is proposed:

3 1. Section 1 of Article VI of the Constitution of the State
4 of Iowa, as amended by amendment number 5 of the Amendments of
5 1868, is repealed and the following adopted in lieu thereof:

6 **Composition — training.** SECTION 1. The militia of this
7 state shall be composed of all able-bodied citizens eighteen
8 years of age and older, except such as are or may hereafter be
9 exempted by the laws of the United States, or of this state;
10 and shall be armed, equipped, and trained, as the general
11 assembly may provide by law.

12 Sec. 2. REFERRAL AND PUBLICATION. The foregoing proposed
13 amendment to the Constitution of the State of Iowa is referred
14 to the general assembly to be chosen at the next general
15 election for members of the general assembly, and the secretary
16 of state is directed to cause the proposed amendment to be
17 published for three consecutive months previous to the date of
18 that election as provided by law.

19 EXPLANATION

20 This joint resolution proposes an amendment to the
21 Constitution of the State of Iowa relating to the composition
22 of the militia of this state. The amendment provides that the
23 militia of this state shall be composed of all able-bodied
24 citizens 18 years of age and older who are not exempt by the
25 laws of the United States or of this state. The Constitution
26 of the State of Iowa currently provides that the militia of
27 this state shall be composed of all able-bodied male citizens
28 between the age of 18 and 45 years who are not exempt by the
29 laws of the United States or of this state.

30 The resolution, if adopted, would be published and then
31 referred to the next general assembly (86th) for adoption,
32 before being submitted to the electorate for ratification.



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Senate Study Bill 1064 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
VETERANS AFFAIRS BILL BY
CHAIRPERSON BEALL)

A BILL FOR

- 1 An Act creating the hire a hero tax credit and including
- 2 retroactive applicability provisions.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1674XC (2) 85
aw/sc



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S.F. _____

1 Section 1. NEW SECTION. 422.10A Hire a hero tax credit.
2 1. The taxes imposed under this division, less the credits
3 allowed under section 422.12, shall be reduced by a hire a hero
4 tax credit. An employer who hires and employs an eligible
5 employee is eligible to claim the tax credit.
6 2. As used in this section:
7 a. "*Eligible employee*" means a person who is a resident
8 of this state and a member of the national guard, reserve, or
9 regular component of the armed forces of the United States
10 employed on a permanent full-time or a permanent part-time
11 basis of at least thirty hours per week each week. A person
12 shall not be an eligible employee if the person was hired to
13 replace a different eligible employee whose employment was
14 terminated within the twelve-month period preceding the date of
15 first employment, unless the eligible employee being replaced
16 left employment voluntarily without good cause attributable to
17 the employer or was discharged for misconduct in connection
18 with the eligible employee's employment.
19 b. "*Employer*" includes a self-employed person who meets the
20 definition of eligible employee.
21 c. "*Military service*" means federal active duty, state
22 active duty, or national guard duty, as defined in section
23 29A.1.
24 3. The allowable credit shall be an amount equal to the sum
25 of the following:
26 a. (1) One thousand dollars for each eligible employee
27 hired for employment in this state during the tax year.
28 (2) If the eligible employee was not employed by the
29 employer for the entire tax year, the amount of the credit in
30 subparagraph (1) shall be prorated and the amount of the credit
31 for the taxpayer shall equal the maximum amount of credit for
32 the tax year, divided by twelve, multiplied by the number of
33 months in the tax year that the eligible employee was employed
34 by the employer. The credit shall be rounded to the nearest
35 dollar. If the employee was employed by the employer during

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1 any part of a month, the eligible employee shall be considered
2 to be employed for the entire month.

3 *b.* (1) Five hundred dollars for each eligible employee
4 employed in this state during a tax year subsequent to the tax
5 year that the employee was hired for employment in this state.

6 (2) If the eligible employee was not employed by the
7 employer for the entire tax year, the amount of the credit in
8 subparagraph (1) shall be prorated and the amount of the credit
9 for the taxpayer shall equal the maximum amount of credit for
10 the tax year, divided by twelve, multiplied by the number of
11 months in the tax year that the eligible employee was employed
12 by the employer. The credit shall be rounded to the nearest
13 dollar. If the employee was employed by the employer during
14 any part of a month, the eligible employee shall be considered
15 to be employed for the entire month.

16 *c.* In addition to the credit amount in paragraph "a" or "b",
17 five hundred dollars for each eligible employee who performs at
18 least thirty days of military service during the tax year while
19 employed by the employer.

20 4. Any credit in excess of the tax liability shall be
21 refunded. In lieu of claiming a refund, a taxpayer may
22 elect to have the overpayment shown on the taxpayer's final,
23 completed return credited to the tax liability for the
24 following tax year.

25 5. An individual may claim the tax credit allowed a
26 partnership, limited liability company, S corporation, estate,
27 or trust electing to have the income taxed directly to the
28 individual. The amount claimed by the individual shall be
29 based upon the pro rata share of the individual's earnings of a
30 partnership, limited liability company, S corporation, estate,
31 or trust.

32 Sec. 2. Section 422.33, Code 2013, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 11. The taxes imposed under this division
35 shall be reduced by a hire a hero tax credit. The taxpayer

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1 shall claim the tax credit according to the same requirements
2 and calculated in the same manner as provided in section
3 422.10A.

4 Sec. 3. Section 422.60, Code 2013, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 12. The taxes imposed under this division
7 shall be reduced by a hire a hero tax credit. The taxpayer
8 shall claim the tax credit according to the same requirements
9 and calculated in the same manner as provided in section
10 422.10A.

11 Sec. 4. RETROACTIVE APPLICABILITY. This Act applies
12 retroactively to January 1, 2013, for tax years beginning on or
13 after that date and for eligible employees hired or employed
14 on or after that date.

15 EXPLANATION

16 This bill creates the hire a hero tax credit for purposes
17 of the state individual and corporate income taxes and the
18 franchise tax. The tax credit is available for employers in
19 the amount of \$1,000 per eligible employee for the year in
20 which the eligible employee is hired, \$500 for each year of
21 employment subsequent to the year of hiring, and \$500 for each
22 year an eligible employee is called to at least 30 days of
23 military service. The annual credits for initial and continued
24 employment shall be prorated if such employment does not
25 extend through an entire tax year. Eligible employees must
26 be a resident of this state and be a member of the national
27 guard or a reserve or regular component of the armed forces
28 of the United States employed on a permanent full-time or
29 permanent part-time basis of at least 30 hours per week. The
30 bill provides that an otherwise eligible employee shall not be
31 considered an eligible employee if the eligible employee was
32 hired to replace another eligible employee whose employment
33 was terminated in the previous 12 months unless the eligible
34 employee being replaced left voluntarily or was discharged for
35 misconduct. The bill applies retroactively to January 1, 2013,

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1 for tax years beginning on or after that date and for eligible
2 employees hired or employed on or after that date.



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Senate Study Bill 1065 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

- 1 An Act concerning charity beer and wine auctions.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1666XC (2) 85
ec/nh



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1 Section 1. Section 123.173A, subsection 4, Code 2013, is
2 amended by striking the subsection.

3 EXPLANATION

4 This bill eliminates the requirement that the beer and wine
5 auctioned at a charity beer and wine auction be obtained from
6 an Iowa retail beer or wine permittee or donated from a person
7 who obtained the beer and wine from such a permittee.



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Senate Study Bill 1066 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act authorizing charitable giving payroll deductions for
2 community college employees.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1598XC (2) 85
ec/sc



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1 Section 1. Section 70A.15A, subsection 1, paragraph a, Code
2 2013, is amended to read as follows:

3 a. "*Applicable public employer*" means a board of directors
4 of a school district, a community college, a county board of
5 supervisors, or a governing body of a city.

6 EXPLANATION

7 This bill allows a community college to authorize deductions
8 from the salaries or wages of its employees for payment to an
9 eligible charitable organization in the same manner as cities,
10 counties, and school districts. Code section 70A.15A defines
11 an eligible charitable organization as certain not-for-profit
12 federations of health and human services, social welfare, or
13 environmental agencies or associations.



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Senate Study Bill 1067 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act authorizing charitable auctions for alcoholic spirits.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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ec/nh



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1 Section 1. Section 123.173A, Code 2013, is amended to read
2 as follows:

3 **123.173A Charity beer, spirits, and wine auction permit.**

4 1. For purposes of this section, "*authorized nonprofit*
5 *entity*" includes a nonprofit entity which has a principal office
6 in the state, a nonprofit corporation organized under chapter
7 504, or a foreign corporation as defined in section 504.141,
8 whose income is exempt from federal taxation under section
9 501(c) of the Internal Revenue Code.

10 2. An authorized nonprofit entity may, upon application to
11 the division and receipt of a charity beer, spirits, and wine
12 auction permit from the division, conduct a charity auction
13 which includes beer, spirits, and wine. The application shall
14 specify the date and time when the charity beer, spirits, and
15 wine auction is to be conducted and the premises in this state
16 where the charity beer, spirits, and wine auction is to be
17 physically conducted. The applicant shall certify that the
18 objective of the charity beer, spirits, and wine auction is
19 to raise funds solely to be used for educational, religious,
20 or charitable purposes and that the entire proceeds from the
21 charity beer, spirits, and wine auction are to be expended for
22 any of the purposes described in section 423.3, subsection 78.

23 3. An authorized nonprofit entity shall be eligible to
24 receive only two charity beer, spirits, and wine auction
25 permits during a calendar year and each charity beer, spirits,
26 and wine auction permit shall be valid for a period not to
27 exceed thirty-six consecutive hours.

28 4. The authorized nonprofit entity conducting the charity
29 beer, spirits, and wine auction shall obtain the beer, spirits,
30 and wine to be auctioned at the charity beer, spirits, and
31 wine auction from an Iowa retail beer permittee, an Iowa
32 retail alcoholic liquor permittee, an Iowa micro-distilled
33 spirits permittee, or an Iowa retail wine permittee, or may
34 receive donations of beer, spirits, or wine to be auctioned
35 at the charity beer, spirits, and wine auction from persons

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1 who purchased the donated beer, spirits, or wine from an
2 Iowa retail beer permittee, an Iowa retail alcoholic liquor
3 permittee, an Iowa micro-distilled spirits permittee, or
4 an Iowa retail wine permittee and who present a receipt
5 documenting the purchase at the time the beer, spirits, or wine
6 is donated. The authorized nonprofit entity conducting the
7 charity beer, spirits, and wine auction shall retain a copy
8 of the receipt for a period of one year from the date of the
9 charity beer, spirits, and wine auction.

10 5. Persons shall be physically present at the charity
11 beer, spirits, and wine auction to be eligible to bid on beer,
12 spirits, and wine sold at the charity auction.

13 6. The beer, spirits, and wine sold at the charity beer,
14 spirits, and wine auction shall be in original containers
15 for consumption off of the premises where the charity beer,
16 spirits, and wine auction is conducted. No other alcoholic
17 beverage may be sold by the charity beer, spirits, and wine
18 auction permittee at the charity beer, spirits, and wine
19 auction. A purchaser of beer, spirits, or wine at a charity
20 beer, spirits, and wine auction shall not take possession of
21 the beer, spirits, or wine until the person is leaving the
22 event. A purchaser of beer, spirits, or wine at a charity
23 beer, spirits, and wine auction shall not open the container
24 or consume or permit the consumption of the beer, spirits, or
25 wine purchased on the premises where the charity beer, spirits,
26 and wine auction is conducted. A purchaser of beer, spirits,
27 or wine at a charity beer, spirits, and wine auction shall not
28 resell the beer, spirits, or wine.

29 7. A liquor control licensee, beer permittee,
30 micro-distilled spirits permittee, or wine permittee shall not
31 purchase beer, spirits, or wine at a charity beer, spirits, and
32 wine auction. The charity beer, spirits, and wine auction may
33 be conducted on a premises for which a class "B" liquor control
34 license or class "C" liquor control license has been issued,
35 provided that the liquor control licensee does not participate

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1 in the charity beer, spirits, and wine auction, supply beer,
2 spirits, or wine to be auctioned at the charity beer, spirits,
3 and wine auction, or receive any of the proceeds of the charity
4 beer, spirits, and wine auction.

5 Sec. 2. Section 123.179, subsection 5, Code 2013, is amended
6 to read as follows:

7 5. The fee for a charity beer, spirits, and wine auction
8 permit is one hundred dollars.

9 EXPLANATION

10 Code section 123.173A, providing for a charity beer and wine
11 auction permit, is amended to allow the auction of alcoholic
12 spirits.



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Senate Study Bill 1068 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act authorizing licensees authorized to operate gambling
2 games on an excursion boat, gambling structure, or racetrack
3 enclosure to operate internet wagering on poker and making
4 penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 99F.1, subsection 1, Code 2013, is
2 amended to read as follows:

3 1. "*Adjusted gross receipts*" means the gross receipts less
4 winnings paid to wagerers. For internet wagering, "*adjusted*
5 *gross receipts*" means the gross receipts for internet wagering
6 on poker from rake and tournament fees less winnings and player
7 incentives paid to wagerers.

8 Sec. 2. Section 99F.1, Code 2013, is amended by adding the
9 following new subsections:

10 NEW SUBSECTION. 16A. "*Internet wagering*" means a method of
11 wagering by which a person may establish an account, deposit
12 money into the account, and use the account balance for
13 wagering by utilizing electronic communication.

14 NEW SUBSECTION. 16B. "*Internet wagering service provider*"
15 means a person who has entered into an agreement with an
16 internet wagering licensee or licensees to provide internet
17 wagering for an internet wagering licensee as authorized by
18 this chapter.

19 NEW SUBSECTION. 19A. "*Player incentives*" means, for
20 internet wagering, any bonuses, rewards, prizes, or other types
21 of promotional items provided to a person engaging in internet
22 wagering by an internet wagering licensee as an incentive to
23 engage in internet wagering.

24 NEW SUBSECTION. 22. "*Rake*" means a set fee or percentage of
25 the pot assessed by an internet wagering licensee for providing
26 the internet wagering services to a person engaging in internet
27 wagering for the right to participate in internet wagering.

28 NEW SUBSECTION. 23. "*Tournament fee*" means a set fee
29 assessed to a person engaging in internet wagering by the
30 internet wagering licensee for providing internet wagering
31 tournament services.

32 Sec. 3. Section 99F.3, Code 2013, is amended to read as
33 follows:

34 **99F.3 Gambling games authorized.**

35 The system of wagering on a gambling game as provided

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1 by this chapter is legal, when conducted on an excursion
2 gambling boat, gambling structure, or racetrack enclosure at
3 authorized locations by a licensee, or, for internet wagering,
4 when conducted by an internet wagering licensee pursuant to
5 requirements established by the commission, as provided in this
6 chapter.

7 Sec. 4. Section 99F.4, subsections 14 and 22, Code 2013, are
8 amended to read as follows:

9 14. To require, except for internet wagering, all licensees
10 of gambling game operations to utilize a cashless wagering
11 system whereby all players' money is converted to tokens,
12 electronic cards, or chips which only can be used for wagering
13 on the excursion gambling boat.

14 22. To require licensees to establish a process to allow a
15 person to be voluntarily excluded for life from an excursion
16 gambling boat and all other licensed facilities under this
17 chapter and chapter 99D, or from engaging in internet wagering
18 conducted by an internet wagering licensee under this chapter.
19 For internet wagering licensees, the process shall allow
20 players to limit the maximum amount of money that may be
21 transferred by that player into an internet wagering account
22 in a twenty-four-hour period. The process established shall
23 require that a licensee disseminate information regarding
24 persons voluntarily excluded to all licensees under this
25 chapter and chapter 99D. The state and any licensee under
26 this chapter or chapter 99D shall not be liable to any person
27 for any claim which may arise from this process. In addition
28 to any other penalty provided by law, any money or thing of
29 value that has been obtained by, or is owed to, a voluntarily
30 excluded person by a licensee as a result of wagers made by the
31 person after the person has been voluntarily excluded shall not
32 be paid to the person but shall be credited to the general fund
33 of the state.

34 Sec. 5. Section 99F.4, Code 2013, is amended by adding the
35 following new subsection:

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1 NEW SUBSECTION. 27. To establish requirements for internet
2 wagering licensees and internet wagering service providers to
3 conduct internet wagering on poker as provided in this chapter.
4 At a minimum, the requirements shall include security measures
5 to insure the integrity of internet wagering and technical
6 standards governing the technology used to conduct internet
7 wagering. In addition, the requirements shall, subject to
8 reasonable conditions established by the commission, allow
9 persons who have registered with an internet wagering licensee
10 to engage in internet wagering with other persons, regardless
11 of location, to the extent permissible by law.

12 Sec. 6. NEW SECTION. 99F.4E Internet wagering on poker —
13 licensing — requirements.

14 1. Upon payment of the applicable internet wagering
15 license fee as determined by the commission and application
16 by a licensee authorized to operate gambling games under this
17 chapter, the commission shall issue an internet wagering
18 license to the licensee, following a review of the applicant
19 and internet wagering service provider in the manner provided
20 in this section and section 99F.6, subject to the provisions
21 of this chapter and rules adopted pursuant to this chapter
22 relating to gambling and internet wagering. A single joint
23 license to conduct internet wagering may be issued to more than
24 one licensee authorized to operate gambling games under this
25 chapter as determined by the commission. The issuance of a
26 license to conduct internet wagering under this chapter shall
27 not be considered the issuance of a new license under this
28 chapter.

29 2. An internet wagering licensee shall comply with the
30 following requirements:

31 a. Internet wagering shall be limited to wagering on poker
32 and all of its variations, including but not limited to Texas
33 hold 'em, Omaha hold 'em, draw poker, and stud poker.

34 b. Internet wagering shall be conducted by the licensee as
35 determined by the commission.

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1 *c.* Internet wagering shall be limited to only those persons
2 who have registered with the licensee to engage in internet
3 wagering. To register, a person shall provide sufficient
4 information to the licensee to verify that the person is at
5 least twenty-one years of age and is otherwise authorized to
6 engage in internet wagering in this state.

7 *d.* (1) If an internet wagering license is issued to one
8 licensee authorized to operate gambling games under this
9 chapter, adjusted gross receipts received by the gambling games
10 licensee under this chapter from internet wagering each fiscal
11 year shall be added to the adjusted gross receipts received
12 by the licensee from gambling games other than from internet
13 wagering for purposes of imposing a tax on the adjusted gross
14 receipts received by the licensee as provided in section
15 99F.11.

16 (2) If a joint internet wagering license is issued to more
17 than one licensee authorized to operate gambling games under
18 this chapter, the tax rate imposed on adjusted gross receipts
19 from internet wagering on poker each fiscal year pursuant to
20 section 99F.11 shall be twenty-two percent or, if a majority
21 of participating licensees on the joint license are otherwise
22 subject to a tax rate of twenty-four percent on adjusted gross
23 receipts from gambling games over three million dollars under
24 section 99F.11, twenty-four percent.

25 *e.* An internet wagering licensee shall make distributions of
26 the receipts from internet wagering on poker in the same manner
27 as provided in section 99F.6, subsection 4, paragraph "a",
28 subparagraph (2), or in the operating agreement entered into
29 with a qualified sponsoring organization as provided in section
30 99F.5, whichever is applicable.

31 *f.* Any other requirements as the commission establishes
32 to ensure the legality and integrity of conducting internet
33 wagering in this state.

34 3. A person holding a valid license pursuant to chapter
35 99D or section 99F.7 is exempt from further investigation



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1 and examination for licensing to operate internet wagering
2 pursuant to this chapter. However, the commission may order
3 future investigations or examinations as the commission finds
4 appropriate.

5 Sec. 7. Section 99F.6, subsection 1, unnumbered paragraph
6 1, Code 2013, is amended to read as follows:

7 A person shall not be issued a license to conduct gambling
8 games on an excursion gambling boat or a license to operate
9 an excursion gambling boat under this chapter, an internet
10 wagering license, an internet wagering service provider
11 license, an occupational license, a distributor license, or
12 a manufacturer license unless the person has completed and
13 signed an application on the form prescribed and published
14 by the commission. The application shall include the full
15 name, residence, date of birth and other personal identifying
16 information of the applicant that the commission deems
17 necessary. The application shall also indicate whether the
18 applicant has any of the following:

19 Sec. 8. Section 99F.6, Code 2013, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 5A. Before a license is granted to an
22 internet wagering service provider, the commission shall,
23 in addition to the requirements of this section, conduct
24 a comprehensive investigation of the service provider to
25 determine whether the service provider has accepted or assisted
26 in the acceptance of any wagers or other consideration related
27 to internet wagering. The commission shall not issue a license
28 to an internet wagering service provider if the commission
29 determines that the service provider has accepted or assisted
30 in the acceptance of any wagers or other consideration
31 related to internet wagering in violation of the laws of any
32 jurisdiction where the service provider has operated.

33 Sec. 9. Section 99F.7, subsection 1, Code 2013, is amended
34 to read as follows:

35 1. If the commission is satisfied that this chapter and



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1 its rules adopted under this chapter applicable to licensees
2 have been or will be complied with, the commission shall issue
3 a license for a period of not more than three years to an
4 applicant to own a gambling game operation, to an applicant to
5 operate a gambling structure, ~~and~~ to an applicant to operate
6 an excursion gambling boat, and to an applicant to conduct
7 internet wagering. The commission shall decide which of the
8 gambling games authorized under this chapter the commission
9 will permit. The commission shall decide the number, location,
10 and type of gambling structures and excursion gambling boats
11 licensed under this chapter. The commission shall allow the
12 operation of an excursion boat or moored barge on or within one
13 thousand feet of the high water marks of the rivers, lakes, and
14 reservoirs of this state as established by the commission in
15 consultation with the United States army corps of engineers,
16 the department of natural resources, or other appropriate
17 regulatory agency. The license shall set forth, as applicable,
18 the name of the licensee, the type of license granted, the
19 location of the gambling structure or the place where the
20 excursion gambling boats will operate and dock, and the time
21 and number of days during the excursion season and the off
22 season when gambling may be conducted by the licensee.

23 Sec. 10. Section 99F.9, subsections 3 and 5, Code 2013, are
24 amended to read as follows:

25 3. The licensee may receive wagers only from a person
26 present on a licensed excursion gambling boat, licensed
27 gambling structure, or in a licensed racetrack enclosure, or
28 from a person engaging in internet wagering. An internet wager
29 may be placed from any location within this state or from
30 any other location where authorized by law, subject to any
31 requirements adopted by the commission.

32 5. A person under the age of twenty-one years shall not
33 engage in internet wagering or make or attempt to make a wager
34 on an excursion gambling boat, gambling structure, or in a
35 racetrack enclosure and shall not be allowed on the gaming

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1 floor of an excursion gambling boat or gambling structure or
2 in the wagering area, as defined in section 99D.2, or on the
3 gaming floor of a racetrack enclosure. However, a person
4 eighteen years of age or older may be employed to work on
5 the gaming floor of an excursion gambling boat or gambling
6 structure or in the wagering area or on the gaming floor of a
7 racetrack enclosure. A person who violates this subsection
8 with respect to engaging in internet wagering or making or
9 attempting to make a wager commits a scheduled violation under
10 section 805.8C, subsection 5, paragraph "a".

11 Sec. 11. Section 99F.12, subsection 2, Code 2013, is amended
12 to read as follows:

13 2. The licensee shall furnish to the commission reports
14 and information as the commission may require with respect to
15 the licensee's activities. The gross receipts and adjusted
16 gross receipts from gambling shall be separately handled and
17 accounted for from all other moneys received from operation of
18 an excursion gambling boat or from operation of a racetrack
19 enclosure or gambling structure licensed to conduct gambling
20 games. For an internet wagering licensee, the gross receipts
21 and adjusted gross receipts from internet wagering shall be
22 separately handled and accounted for from all other moneys
23 received from other licensed activities of the licensee. The
24 commission may designate a representative to board a licensed
25 excursion gambling boat or to enter a racetrack enclosure or
26 gambling structure licensed to conduct gambling games. The
27 representative shall have full access to all places within the
28 enclosure of the boat, the gambling structure, or the racetrack
29 enclosure and shall directly supervise the handling and
30 accounting of all gross receipts and adjusted gross receipts
31 from gambling. The representative shall supervise and check
32 the admissions. The compensation of a representative shall be
33 fixed by the commission but shall be paid by the licensee.

34 Sec. 12. Section 99F.12, Code 2013, is amended by adding the
35 following new subsection:

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1 **NEW SUBSECTION.** 2A. a. An internet wagering licensee
2 shall, in addition to the books and records otherwise required
3 by this section, make the following information available to
4 the commission upon request:
5 (1) Monthly auditable and aggregate financial statements of
6 internet wagering transactions.
7 (2) Calculation of all fees payable to government.
8 (3) The identity of registered players.
9 (4) The balance on a registered player's account at the
10 start of a session of play.
11 (5) The wagers placed on each game time stamped by the games
12 server.
13 (6) The result of each game time stamped by the games
14 server.
15 (7) The amount won or lost by a registered player.
16 (8) The balance on a registered player's account at the end
17 of the game.
18 b. Information described in paragraph "a", subparagraphs (3)
19 through (8), shall be confidential.
20 Sec. 13. Section 99F.15, subsection 3, Code 2013, is amended
21 to read as follows:
22 3. A Except for internet wagering conducted as authorized
23 by this chapter, a person wagering or accepting a wager at
24 any location outside an excursion gambling boat, gambling
25 structure, or a racetrack enclosure is in violation of section
26 725.7.
27 Sec. 14. Section 99F.15, subsection 4, unnumbered paragraph
28 1, Code 2013, is amended to read as follows:
29 A person commits a class "D" felony and, in addition, shall
30 be barred for life from internet wagering, excursion gambling
31 boats, and gambling structures under the jurisdiction of the
32 commission, if the person does any of the following:
33 EXPLANATION
34 This bill permits licensees authorized to conduct gambling
35 games under Code chapter 99F to apply for and receive a license



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1 to conduct internet wagering on poker.

2 Code section 99F.1, concerning definitions, is amended. The
3 bill defines "internet wagering" as a method of wagering by
4 which a person may establish an account, deposit money into the
5 account, and use the account balance for wagering by utilizing
6 electronic communication. The bill also defines "internet
7 wagering service provider" as a person who has entered into
8 an agreement to conduct internet wagering for an internet
9 wagering licensee. The definition of "adjusted gross receipts"
10 is amended to mean, for internet wagering, the gross receipts
11 for internet wagering on poker from rake and tournament fees
12 less winnings and player incentives paid to wagerers. The
13 terms "player incentives", "rake", and "tournament fees", for
14 purposes of internet wagering, are also defined.

15 Code section 99F.4, concerning the powers of the state
16 racing and gaming commission, is amended to provide that the
17 commission shall establish requirements for internet wagering
18 and internet wagering licensees and service providers. The
19 Code section is also amended to provide that the current
20 process that allows a person to be voluntarily excluded from a
21 gambling facility shall also apply to internet wagering.

22 New Code section 99F.4E establishes the process for
23 licensing and conducting internet wagering. The bill
24 authorizes current gambling games licensees, upon payment of
25 a fee as determined by the racing and gaming commission, to
26 apply for an internet wagering license and allows more than one
27 existing licensee to jointly apply for an internet wagering
28 license. The bill provides that internet wagering licensees
29 shall make distributions of the adjusted gross receipts from
30 internet wagering for charitable purposes in the same manner as
31 other gambling game licensees. The bill provides that internet
32 wagering shall be limited to poker, shall be conducted as
33 determined by the commission, and shall be limited to persons
34 who have registered with the licensee to conduct internet
35 wagering. The bill provides that if a single gambling games

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1 licensee is issued an internet wagering license, the adjusted
2 gross receipts from internet wagering shall be included as
3 part of the licensee's adjusted gross receipts for purposes
4 of applying the wagering tax pursuant to Code section 99F.11.
5 The bill further provides that if a joint internet wagering
6 license is issued to more than one gambling games licensee, the
7 wagering tax imposed on adjusted gross receipts from internet
8 wagering pursuant to Code section 99F.11 shall be 22 percent
9 or, if the majority of participating licensees are otherwise
10 subject to a wagering tax of 24 percent under Code section
11 99F.11, 24 percent.

12 Code section 99F.6, concerning requirements for applications
13 for a license under Code chapter 99F, is amended to provide
14 that the requirements also apply to internet wagering service
15 providers and applicants for an internet wagering license. The
16 Code section is further amended to provide that the commission
17 shall not issue a license to an internet wagering service
18 provider if the commission determines that the provider has
19 accepted or assisted in the acceptance of wagers related to
20 internet wagering in violation of the laws of any jurisdiction
21 in which the provider has operated.

22 Code section 99F.9, concerning wagering, is amended to
23 provide that wagers through internet wagering are authorized
24 and can be made from any location within this state or as
25 authorized by law subject to any requirements adopted by the
26 commission. The Code section is also amended to provide
27 that limits on wagering for persons under the age of 21 at
28 an excursion gambling boat, gambling structure, or racetrack
29 enclosure also apply to internet wagering.

30 Code section 99F.12, concerning licensee reporting
31 requirements, is amended to provide that an internet wagering
32 licensee shall separately account for the gross receipts and
33 adjusted gross receipts from internet wagering. The bill
34 also provides that an internet wagering licensee shall make
35 available to the racing and gaming commission information

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1 concerning the identity and account balances of persons
2 engaging in internet wagering with the licensee as well as
3 information relative to individual poker games. The bill
4 provides that this information is confidential.
5 Code section 99F.15, concerning prohibited activities and
6 penalties, is amended to provide that a person who commits a
7 class "D" felony relative to certain activities relating to
8 gambling shall also be barred for life from internet wagering
9 in the same manner as the person would be barred from excursion
10 gambling boats and gambling structures.



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Senate Study Bill 1069 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON RAGAN)

A BILL FOR

1 An Act relating to reimbursement of licensed dental hygienists
2 under the Medicaid program.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:



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1 Section 1. NEW SECTION. **249A.15C Licensed dental hygienists**
2 **eligible for payment.**

3 The department shall adopt rules pursuant to chapter 17A
4 entitling dental hygienists who are licensed pursuant to
5 chapter 153 to payment for services provided to recipients of
6 medical assistance, subject to limitations and exclusions the
7 department finds necessary on the basis of federal laws and
8 regulations.

9 EXPLANATION

10 This bill directs the department of human services to adopt
11 rules entitling licensed dental hygienists to payment for
12 services provided to recipients of medical assistance, subject
13 to limitations and exclusions the department finds necessary on
14 the basis of federal laws and regulations.



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Senate Study Bill 1070 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL BY
CHAIRPERSON WILHELM)

A BILL FOR

1 An Act relating to certain fees collected by the county
2 recorder.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 331.604, subsection 3, paragraph b, Code
2 2013, is amended to read as follows:

3 ~~b. (1) For the period beginning July 1, 2004, and ending~~
4 ~~June 30, 2009, the county recorder shall also collect a fee of~~
5 ~~one dollar for each recorded transaction, regardless of the~~
6 ~~number of pages, for which a fee is paid pursuant to subsection~~
7 ~~1 to be used for the purpose set forth in paragraph "d".~~

8 ~~(2) For the period beginning July 1, 2009, and ending~~
9 ~~June 30, 2011, the recorder shall also collect a fee of three~~
10 ~~dollars for each recorded transaction, regardless of the number~~
11 ~~of pages, for which a fee is paid pursuant to subsection 1 to be~~
12 ~~used for the following purposes:~~

13 ~~(a) Maintaining the statewide internet website and the~~
14 ~~county land record information system.~~

15 ~~(b) Integrating information contained in documents and~~
16 ~~records maintained by the recorder and other land record~~
17 ~~information from other sources with the county land record~~
18 ~~information system.~~

19 ~~(c) Implementing and maintaining a process for redacting~~
20 ~~personally identifiable information contained in electronic~~
21 ~~documents that are displayed for public access through an~~
22 ~~internet website or that are transferred to another person.~~

23 ~~(3) (1) Beginning July 1, 2011~~ 2013, the recorder shall
24 also collect a fee of ~~one dollar~~ two dollars for each recorded
25 transaction, regardless of the number of pages, for which a fee
26 is paid pursuant to subsection 1 to be used for the ~~purposes in~~
27 ~~subparagraph (2) and for the following purposes:~~

28 (a) Establishing and implementing standards for recording,
29 processing, and archiving electronic documents and records.

30 (b) Expanding access to records by encouraging electronic
31 indexing and scanning of documents and instruments recorded in
32 prior years.

33 (c) Maintaining the statewide internet site and the county
34 land record information system.

35 (d) Integrating information contained in documents and

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1 records maintained by the recorder and other land record
2 information from other sources with the county land record
3 information system.

4 (e) Implementing and maintaining a process for redacting
5 personally identifiable information contained in electronic
6 documents that are displayed for public access through an
7 internet site or that are transferred to another person.

8 (f) Maintaining and improving the technical integration
9 between the county land record information system and the
10 county records management systems.

11 (g) Expanding access to other online electronic services
12 administered through the office of the county recorder.

13 ~~(4) (2) Notwithstanding subparagraph (2), the The fee~~
14 ~~collected by the recorder under this subsection for recording~~
15 ~~a plat of survey is one dollar, regardless of the number of~~
16 ~~pages. For purposes of this subparagraph, "plat of survey"~~
17 ~~means the same as defined in section 355.1, subsection 9.~~

18 ~~(5) Fees collected in excess of the amount needed for the~~
19 ~~purposes specified in this subsection shall be used by the~~
20 ~~county land record information system to reduce or eliminate~~
21 ~~service fees for electronic submission of documents and~~
22 ~~instruments.~~

23 EXPLANATION

24 This bill requires that a county recorder collect an
25 extra \$1 in fees beginning July 1, 2013, for each recorded
26 transaction to be used by the recorder exclusively for certain
27 specified purposes related to information systems, electronic
28 documentation, and internet site maintenance. The bill
29 also strikes language that required certain other fees to be
30 collected between 2004 and June 30, 2011, and transfers the
31 purposes for which the fees could be used to the provision
32 regarding fees collected beginning July 1, 2013.

33 Finally, the bill also adds certain additional purposes
34 for which the fee may be used, including expanding access to
35 electronic services and maintaining and improving technical

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1 integration between county systems.



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Senate Study Bill 1071 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
REVENUE BILL)

A BILL FOR

1 An Act updating the Code references to the Internal Revenue
2 Code and decoupling from certain federal bonus depreciation
3 provisions, providing certain taxpayers additional time to
4 file a claim for refund or credit of individual income tax,
5 and including effective date and retroactive applicability
6 provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 DIVISION I
2 INTERNAL REVENUE CODE REFERENCES
3 Section 1. Section 15.335, subsection 7, paragraph b, Code
4 2013, is amended to read as follows:
5 *b.* For purposes of this section, "*Internal Revenue Code*"
6 means the Internal Revenue Code in effect on January 1, ~~2012~~
7 2013, and as amended by the American Taxpayer Relief Act of
8 2012, Pub. L. No. 112-240.
9 Sec. 2. Section 422.3, subsection 5, Code 2013, is amended
10 to read as follows:
11 5. "*Internal Revenue Code*" means the Internal Revenue Code
12 of 1954, prior to the date of its redesignation as the Internal
13 Revenue Code of 1986 by the Tax Reform Act of 1986, or means
14 the Internal Revenue Code of 1986 as amended to and including
15 January 1, ~~2012~~ 2013, and as amended by the American Taxpayer
16 Relief Act of 2012, Pub. L. No. 112-240.
17 Sec. 3. Section 422.9, subsection 2, paragraph i, Code 2013,
18 is amended to read as follows:
19 *i.* The deduction for state sales and use taxes is allowable
20 only if the taxpayer elected to deduct the state sales and use
21 taxes in lieu of state income taxes under section 164 of the
22 Internal Revenue Code. A deduction for state sales and use
23 taxes is not allowed if the taxpayer has taken the deduction
24 for state income taxes or claimed the standard deduction under
25 section 63 of the Internal Revenue Code. This paragraph
26 applies to taxable years beginning after December 31, 2003, and
27 before January 1, 2008, and to taxable years beginning after
28 December 31, 2009, and before January 1, ~~2012~~ 2014.
29 Sec. 4. Section 422.10, subsection 3, paragraph b, Code
30 2013, is amended to read as follows:
31 *b.* For purposes of this section, "*Internal Revenue Code*"
32 means the Internal Revenue Code in effect on January 1, ~~2012~~
33 2013, and as amended by the American Taxpayer Relief Act of
34 2012, Pub. L. No. 112-240.
35 Sec. 5. Section 422.32, subsection 1, paragraph g, Code

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1 2013, is amended to read as follows:

2 *g. "Internal Revenue Code"* means the Internal Revenue Code
3 of 1954, prior to the date of its redesignation as the Internal
4 Revenue Code of 1986 by the Tax Reform Act of 1986, or means
5 the Internal Revenue Code of 1986 as amended to and including
6 January 1, ~~2012~~ 2013, and as amended by the American Taxpayer
7 Relief Act of 2012, Pub. L. No. 112-240.

8 Sec. 6. Section 422.33, subsection 5, paragraph d,
9 subparagraph (2), Code 2013, is amended to read as follows:

10 (2) For purposes of this subsection, *"Internal Revenue Code"*
11 means the Internal Revenue Code in effect on January 1, ~~2012~~
12 2013, and as amended by the American Taxpayer Relief Act of
13 2012, Pub. L. No. 112-240.

14 Sec. 7. EFFECTIVE UPON ENACTMENT. This division of this
15 Act, being deemed of immediate importance, takes effect upon
16 enactment.

17 Sec. 8. RETROACTIVE APPLICABILITY. This division of this
18 Act applies retroactively to January 1, 2012, for tax years
19 beginning on or after that date.

20 DIVISION II

21 BONUS DEPRECIATION

22 Sec. 9. Section 422.7, subsection 39A, unnumbered paragraph
23 1, Code 2013, is amended to read as follows:

24 The additional first-year depreciation allowance authorized
25 in section 168(k) of the Internal Revenue Code, as enacted by
26 Pub. L. No. 110-185, § 103, Pub. L. No. 111-5, § 1201, Pub. L.
27 No. 111-240, § 2022, ~~and~~ Pub. L. No. 111-312, § 401, and Pub. L.
28 No. 112-240, § 331, does not apply in computing net income for
29 state tax purposes. If the taxpayer has taken the additional
30 first-year depreciation allowance for purposes of computing
31 federal adjusted gross income, then the taxpayer shall make the
32 following adjustments to federal adjusted gross income when
33 computing net income for state tax purposes:

34 Sec. 10. Section 422.35, subsection 19A, unnumbered
35 paragraph 1, Code 2013, is amended to read as follows:

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1 The additional first-year depreciation allowance authorized
2 in section 168(k) of the Internal Revenue Code, as enacted by
3 Pub. L. No. 110-185, § 103, Pub. L. No. 111-5, § 1201, Pub. L.
4 No. 111-240, § 2022, ~~and~~ Pub. L. No. 111-312, § 401, and Pub. L.
5 No. 112-240, § 331, does not apply in computing net income for
6 state tax purposes. If the taxpayer has taken the additional
7 first-year depreciation allowance for purposes of computing
8 federal taxable income, then the taxpayer shall make the
9 following adjustments to federal taxable income when computing
10 net income for state tax purposes:

11 Sec. 11. EFFECTIVE UPON ENACTMENT. This division of this
12 Act, being deemed of immediate importance, takes effect upon
13 enactment.

14 Sec. 12. RETROACTIVE APPLICABILITY. This division of this
15 Act applies retroactively to January 1, 2013, for tax years
16 ending on or after that date.

17 DIVISION III

18 FILING OF CLAIMS

19 Sec. 13. Section 422.73, Code 2013, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 1A. Notwithstanding subsection 1, a claim
22 for refund or credit of the individual income tax paid which
23 resulted from a reduction in a person's federal adjusted gross
24 income due to section 1106 of the FAA Modernization and Reform
25 Act of 2012, Pub. L. No. 112-95, shall be considered timely if
26 the claim is filed with the department on or before June 30,
27 2013.

28 Sec. 14. EFFECTIVE UPON ENACTMENT. This division of this
29 Act, being deemed of immediate importance, takes effect upon
30 enactment.

31 Sec. 15. RETROACTIVE APPLICABILITY. This division of this
32 Act applies retroactively to January 1, 2012, for refund or
33 credit claims filed on or after that date.

34 EXPLANATION

35 This bill updates the Iowa Code references to the Internal

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1 Revenue Code to make federal income tax revisions enacted by
2 Congress in 2012, and by the American Taxpayer Relief Act of
3 2012, Pub. L. No. 112-240, applicable for Iowa income tax
4 purposes, decouples with certain bonus depreciation provisions,
5 and provides certain taxpayers additional time to file a claim
6 for refund or credit of individual income tax paid.

7 DIVISION I — INTERNAL REVENUE CODE REFERENCES. The
8 division amends Code sections 422.3 and 422.32, general
9 definition sections in the chapter of the Code that governs
10 corporate and individual income tax and the franchise tax
11 on financial institutions, to update the references to the
12 Internal Revenue Code.

13 The division amends Code sections 15.335, 422.10, and 422.33
14 to update the references to the Internal Revenue Code for the
15 state research activities credit for individuals, corporations,
16 and corporations in economic development areas to include the
17 federal changes to the research activities credit and the
18 alternative simplified research activities credit.

19 Code section 422.9 provides individuals a deduction from net
20 income for state sales and use taxes if the individual chose
21 to deduct sales and use tax in lieu of state income taxes or
22 the standard deduction for federal income tax purposes. This
23 deduction was set to expire under both federal and Iowa law for
24 tax years beginning on or after January 1, 2012. The American
25 Taxpayer Relief Act of 2012 extended the federal deduction for
26 the 2012 and 2013 tax years. This division extends the Iowa
27 deduction for the 2012 and 2013 tax years.

28 Division I takes effect upon enactment and applies
29 retroactively to January 1, 2012, for tax years beginning on
30 or after that date.

31 DIVISION II — BONUS DEPRECIATION. The division decouples,
32 for Iowa income tax purposes, from the federal additional
33 first-year depreciation allowance in section 168(k) of the
34 Internal Revenue Code which was extended by the American
35 Taxpayer Relief Act of 2012.



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1 Division II takes effect upon enactment and applies
2 retroactively to January 1, 2013, for tax years ending on or
3 after that date.

4 DIVISION III — FILING OF CLAIMS. The division amends
5 Code section 422.73, relating to the period of limitation to
6 claim a tax refund or credit, to provide additional time for
7 taxpayers affected by the FAA Modernization and Reform Act of
8 2012, Pub. L. No. 112-95, to request a refund or credit of Iowa
9 individual income tax paid. The federal law allows a qualified
10 airline employee who received a settlement payment from an
11 airline company in bankruptcy to roll over that amount into a
12 traditional individual retirement account (IRA) and exclude
13 that amount from adjusted gross income in the year in which it
14 was received. The federal law allowed additional time, until
15 April 15, 2013, for a refund to be requested for federal income
16 tax purposes provided the rollover occurred within 180 days of
17 February 14, 2012. Iowa taxpayers whose federal adjusted gross
18 income was reduced due to this federal law have until June 30,
19 2013, to request a refund or credit for Iowa individual income
20 tax paid.

21 Division III takes effect upon enactment and applies
22 retroactively to January 1, 2012, for refund or credit claims
23 filed on or after that date.